

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

ORIGINAL

77-1229

**United States Court of Appeals
For the Second Circuit**

*B
PBS*

UNITED STATES OF AMERICA,

Appellee,

-against-

VINCENT W. ALBANO,

Defendant-Appellant.

*On Appeal from a Judgment of Conviction
in the United States District Court
Eastern District of New York*

Appellant's Appendix



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APPEAL District Court U.S. vs. **76 CR 481** **WEINSTEIN, J.**
 OR Mla ☐ NY Fel ☒ **207** **1** **28** **76** **481** **1**
 Disposition: **1** **207** **1** **28** **76** **481** **1**
 (LAST, FIRST, MIDDLE) **ALBANO, VINCENT W.** **CLOSED**

U.S. TITLE/SECTION OFFENSES CHARGED
26:7201, 26:7206(1) Did attempt to evade and defeat 10 income tax due and owing by him.

U.S. MAG. CASE NO.
 Denied ☐ AMT ☐ Fugitive ☐
 Set ☐ Pers. Recog ☐
 \$ 000 ☐ PSA ☐
 Date ☐ 10% Deposit ☐
 Bail Not Made ☐ Surety Bond ☐
 Status Changed (See Docket) ☐ 3rd Party Cust ☐ Other ☐

II. KEY DATES & INTERVALS

ARREST or **INDICTMENT** ☒ **ARRAIGNMENT** **TRIAL**
 U.S. Custody Began High Risk Date **7/28/76** **9/23/76**
 Summons Served Indict. Waived 1st Plea **10-20-76**
 First Appearance In Charging District Superseding Indict/Info

SENTENCE
 On All Charges ☐
 On Lesser Offense(s) ☐
 WOP: ☐ ☒ ☐

MAGISTRATE
 Search Warrant Issued ☐ Return ☐
 Summons Issued ☐ Served ☐
 Arrest Warrant Issued ☐
 COMPLAINT ☐
 OFFENSE (In Complaint) ☐
 DATE INITIAL/NO. INITIAL APPEARANCE DATE PRELIMINARY EXAMINATION OR REMOVAL HEARING ☐ WAIVED ☐ NOT WAIVED ☐ INTERVENING INDICTMENT
 Tape Number OUTCOME ☐ DISMISSED ☐ HELD FOR GOV OR OTHER PROCEEDING IN THIS DISTRICT ☐ HELD FOR GOV OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.

ATTORNEYS Defense: ☐ CIA ☐ Ret ☐ Waived ☐ Self ☐ None / Other: ☐ PD ☐ GCD

Thomas P. Puccio

* Show last names and suffix numbers of other defendants on same indictment/information.

DATE	(DOCUMENT NO.)	PROCEEDINGS	EXCLUDABLE DELAY (a) (b) (c) (d)
7/28/76		Before DOOLING, J. - Indictment filed ordered sealed.	
9/21/76		By WEINSTEIN, J. - Ordered that the sealed indictment by unsealed by the Clerk and filed.	
9/23/76		Before WEINSTEIN, J. - Case called. Deft & Counsel present. Deft arraigned and after being advised of his rights by the Court and on his own behalf enters a plea of not guilty. Bail at \$10,000.00 P.B. Trial set for 10/20/76 at 10:30 a.m.	
10-20-76		Before Weinstein, J.- Case Called. Deft & Counsel present. Deft withdraws his plea of not guilty and having been advised of his rights by the Court and on his own behalf enters a plea of guilty to counts 5, 8 & 10. Sentence adjd. without date.	
1-5-77		Letter filed received from Chambers written by George Santangelo to Judge Weinstein requesting that the sentence scheduled for 1-7-77 at 9:30 A.M. be adjd. until 1-31-77.	
1-5-77		By Weinstein, J.- Order filed that the Motion to adj. deft's. sentence date is granted.	

BEST COPY AVAILABLE

(DOCUMENT NO.)

1-7-77 Before Weinstein, J.- Case Called. Sentence adjd. to 1-31-77 at 9:30 A.M.

1.28.77 Notice of Motion to Contravene Prestance Report filed and for-warded to Chambers. (returnable 1.31.77)

1-31-77 Before WEINSTEIN J - case called - deft & counsel present - defts motion to contest the probation report - hearing ordered and begun - hearing contd without date - sentence adjd without date

2-11-77 Letter filed dated 2-7-77 received from Chambers from atty for the deft, George Santangelo, Esq. Motion for in Camera hearing is denied. Exclusion of the public is unusual and is permitted only upon a strong showing of necessity. No such showing has been made. So Ordered by Judge Weinstein (see notation on page 3 of attys letter)

2-22-77 Before WEINSTEIN J - case called - deft & atty present - sentence hearing ordered and begun - hearing contd to 2-23-77 at 6 PM.

2-23-77 Before WEINSTEIN J - case called - hearing resumed - hearing contd to 2-24-77 at 5: 30 PM

2-25-77 Before WEINSTEIN, J. - Case called & adj'd to 2-28-77 at 10:30 A.M.

2.28.77 Before Weinstein, J.- Case Called. and Hearing adjd. to 3.2.77 at 9:30 A.M.

3-2-77 Before WEINSTEIN J - case called - hearing resumed - hearing concluded - sentence adjd to 3-9-77 at 9:30 am

3-9-77 Before WEINSTEIN J - case called - deft & counsel Mr.Santangelo present - Defts motion for the court to disqualify himself and for a new probation report- motion for a new probation report is denied. Defts motion for the court to disqualify himself is granted - case to be assigned to another Judge - The matter is referred to the Chief Judge for reassignment.

3.11.77 Stenographer's Transcript dated March 9, 1977 filed.

3.18.77 Before Platt, J.- Case Called. Deft's. motion for Hearing on pre-sentence repot - withdrawn. Court directs Probation Department to revise report and refers revised report to new sentencing panel. Sentencing set down for 3.31.77 at 9:30 A.M.

3-22-77 Transcript filed dated March 18, 1977

3/31/77 before PLATT, J. - Deft and counsel present. Deft sentenced on count 5 for a term of 3 years imprisonment. Deft shall become eligible for parole under T-18:4205 (b)(2) or at such time as Parole Commission may determine. Deft fined \$10,000.00. On count 8 deft sentenced to 3 years imprisonment, execution of sentence is suspended and deft placed on probation for five years, sentence to run consecutively to sentence imposed in count 5 and deft

FINE AND RESTITUTION PAYMENTS					
DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

DATE	PROCEEDINGS (continued)	(a)
	(Document No.) 34 fined - \$5,000.00. On count 10, deft sentenced to 3 years imprisonment execution of sentence is suspended and deft is placed on probation for a period of 5 years, such sentence to run consecutively to sentences imposed in counts 5 and 8 and deft shall be fined \$5,000.00. Total fines in the sum of 20,000.00 on the three counts. On motion of AUSA Puccio, counts 1 through 4, 6, 7 and 9 are ordered dismissed.	
3/31/77	Judgment & Commitment filed. Certified copies to Marshals and probation.	
4-8-77	Notice of appeal filed. Docket entries and duplicate of Notice mailed to the court of appeals	
5-5-77	Scheduling order filed that the index to record be docketed on or before May 6, 1977. rs	

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.

JUL 28 1976

TIME AM.....
P.M.....

UNITED STATES OF AMERICA

- against -

Cr. No. _____
(26 U.S.C., Section 7201
26 U.S.C., Section 7206(1))

VINCENT W. ALBANO,

Defendant.

76 CR 481

Count - 5, 8, 10.

The Grand Jury Charges:

COUNT ONE

On or about the 15th day of April 1971, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, who during the calendar year 1970 was married, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1970 by preparing and causing to be prepared, by signing and causing to be signed and by mailing and causing to be mailed, in the Eastern District of New York, a false and fraudulent income tax return on behalf of himself and his said wife which was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of Five Thousand Three Hundred Eighteen Dollars (\$5,318.00), and that the amount of tax due and owing thereon was the sum of Eight Hundred and Seventy Dollars (\$870.00), whereas as he then and there well knew, their joint taxable income for the said calendar year was approximately Nineteen Thousand Fifty Four Dollars and Fourteen Cents (\$19,054.14), upon which said taxable income there was owing to the United States of America an income tax of approximately Four Thousand Two Hundred Eighteen Dollars and Four Cents (\$4,218.04). (Title 26, United States Code, Section 7201).

COUNT TWO

The Grand Jury Further Charges:

On or about the 15th day of April 1971, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, did wilfully and knowingly make and subscribe a 1970 United States Individual Income Tax Return, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which income tax return he did not believe to be true and correct as to every material matter, in that the said return reported adjusted gross income in the amount of Ten Thousand Eight Hundred and Seventy Four Dollars (\$10,874.00), whereas as he then and there well knew and believed, his adjusted gross income for the calendar year 1970 was substantially in excess of Ten Thousand Eight Hundred and Seventy Four Dollars (\$10,874.00). (Title 26, United States Code, Section 7206(1)).

COUNT THREE

The Grand Jury Further Charges:

On or about the 15th day of April 1972, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, who during the calendar year 1971 was married, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1971 by preparing and causing to be prepared, by signing and causing to be signed and by mailing and causing to be mailed, in the Eastern District of New York, a false and fraudulent income tax return on behalf of himself and his said wife which was filed with the Internal Revenue Service, wherein it stated that their taxable income for said calendar year was the sum of One Thousand Eight Hundred and Ninety Dollars (\$1,890.00), and that the amount of tax due and owing thereon was the sum of Two Hundred and Seventy Four Dollars (\$274.00), whereas as he then and there well knew, their joint taxable income for the said calendar year was approximately Twenty Seven Thousand Nine

Hundred Eighty Seven Dollars and Eighteen Cents (\$27,987.18), upon which said taxable income there was owing to the United States of America an income tax of approximately Seven Thousand Ninety Five Dollars and Thirty Eight Cents (\$7,095.38). (Title 26, United States Code, Section 7201).

COUNT FOUR

The Grand Jury Further Charges:

On or about the 15th day of April 1972, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, did wilfully and knowingly make and subscribe a 1971 United States Individual Income Tax Return, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which income tax return he did not believe to be true and correct as to every material matter, in that the said return reported adjusted gross income in the amount of Seven Thousand Six Hundred and Ninety Six Dollars (\$7,696.00), whereas as he then and there well knew and believed, his adjusted gross income for the calendar year 1971 was substantially in excess of Seven Thousand Six Hundred and Ninety Six Dollars (\$7,696.00). (Title 26, United States Code, Section 7206(1)).

COUNT FIVE

The Grand Jury Further Charges:

On or about the 15th day of April 1973, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, who during the calendar year 1972 was married, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1972 by preparing and causing to be prepared, by signing and causing to be signed and by mailing and causing to be mailed, in the Eastern District of New York,

F

a false and fraudulent income tax return on behalf of himself and his said wife which was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of Two Thousand Seven Hundred and Ninety Dollars (\$2,790.00), and that the amount of tax due and owing thereon was the sum of Four Hundred and Sixteen Dollars (\$416.00), whereas as he then and there well knew, their joint taxable income for the said calendar year was approximately Twenty Three Thousand Eight Hundred Nineteen Dollars and Eighty One Cents (\$23,819.81), upon which said taxable income there was owing to the United States of America an income tax of approximately Five Thousand Six Hundred Two Dollars and Thirty Four Cents (\$5,602.34). (Title 26, United States Code, Section 7201).

COUNT SIX

The Grand Jury Further Charges:

On or about the 15th day of April 1973, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, did wilfully and knowingly make and subscribe a 1972 United States Individual Income Tax Return, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which income tax return he did not believe to be true and correct as to every material matter, in that the said return reported adjusted gross income in the amount of Eight Thousand One Hundred and Eighty Six Dollars (\$8,186.00), whereas as he then and there well knew and believed, his adjusted gross income for the calendar year 1972 was substantially in excess of Eight Thousand One Hundred and Eighty Six Dollars (\$8,186.00). (Title 26, United States Code, Section 7206(1)).

COUNT SEVEN

The Grand Jury Further Charges:

On or about the 15th day of April 1974, in the Eastern

District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, who during the calendar year 1973 was married, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1973 by preparing and causing to be prepared, by signing and causing to be signed and by mailing and causing to be mailed, in the Eastern District of New York, a false and fraudulent income tax return on behalf of himself and his said wife which was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of Fourteen Thousand Five Hundred and Eighty One Dollars (\$14,581.00), and that the amount of tax due and owing thereon was the sum of Two Thousand Nine Hundred and Five Dollars (\$2,905.00), whereas as he then and there well knew, their joint taxable income for the said calendar year was approximately Sixty Five Thousand Three Hundred Thirty Three Dollars and Eighty Four Cents (\$65,333.84), upon which said taxable income there was owing to the United States of America an income tax of approximately Twenty Five Thousand One Hundred Fifty Three Dollars and Sixty One Cents (\$25,153.61). (Title 26, United States Code, Section 7201).

COUNT EIGHT

The Grand Jury Further Charges:

On or about the 15th day of April 1974, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, did wilfully and knowingly make and subscribe a 1973 United States Individual Income Tax Return, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which income tax return he did not believe to be true and correct as to every material matter, in that the said return reported adjusted gross income in the amount Twenty One Thousand One Hundred and Forty Four Dollars (\$21,144.00), whereas as he then and there well knew

and believed, his adjusted gross income for the calendar year 1973 was substantially in excess of Twenty One Thousand One Hundred and Forty Four Dollars (\$21,144.00). (Title 26, United States Code, Section 7206(1)).

COUNT NINE

The Grand Jury Further Charges:

On or about the 15th day of April 1975. in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident of Queens, New York, who during the calendar year 1974 was married, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1974 by preparing and causing to be prepared, by signing and causing to be signed and by mailing and causing to be mailed, in the Eastern District of New York, a false and fraudulent income tax return on behalf of himself and his said wife which was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of Eleven Thousand Four Hundred and Ninety Nine Dollars (\$11,499.00), and that the amount of tax due and owing thereon was the sum of Two Thousand One Hundred and Fifty Dollars (\$2,150.00), whereas as he then and there well knew, their joint taxable income for the said calendar year was approximately Ninety Four Thousand Six Hundred Ninety One Dollars and Thirty Four Cents (\$94,691.34), upon which said taxable income there was owing to the United States of America an income tax of approximately Forty One Thousand Nine Hundred Ninety Four Dollars and Eighty Cents (\$41,994.80). (Title 26, United States Code, Section 7201).

COUNT TEN

The Grand Jury Further Charges:

On or about the 15th day of April 1975, in the Eastern District of New York, VINCENT W. ALBANO, the defendant, a resident

of Queens, New York, did wilfully and knowingly make and subscribe a 1974 United States Individual Income Tax Return, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which income tax return he did not believe to be true and correct as to every material matter, in that the said return reported adjusted gross income in the amount of Eighteen Thousand One Hundred and Twenty One Dollars (\$18,121.00), whereas as he then and there well knew and believed, his adjusted gross income for the calendar year 1974 was substantially in excess of Eighteen Thousand One Hundred and Twenty One Dollars (\$18,121.00). (Title 26, United States Code, Section 7206(1)).

A TRUE BILL.

Roberto Sabella

FOREMAN.

David G. Trager by T.P.P.

DAVID G. TRAGER
United States Attorney
Eastern District of New York

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
J. S. DISTRICT COURT E.D. N.Y.

★ JAN 28 1977 ★

TIME

UNITED STATES OF AMERICA,

-against-

VINCENT W. ALBANO,

Defendant.

NOTICE OF MOTION TO
CONTRAVENTE PRE-
SENTENCE REPORT

76 Cr. 481

S I R S :

PLEASE TAKE NOTICE that upon the annexed affirmation of George L. Santangelo, dated January 27, 1977, and upon the Exhibits attached thereto, and all of the prior proceedings, the undersigned will move on the 31st day of January, 1977, to contravene the pre-sentence report of the defendant, Vincent W. Albano.

Dated: New York, New York
January 31, 1977

Yours, etc.

Santangelo & Santangelo
SANTANGELO & SANTANGELO
Attorneys for Defendant
Office & P.O. Address
253 Broadway
New York, N.Y. 10007

TO: HON. JACK B. WEINSTEIN
DAVID TRAGER, ESQ.
United States Attorney
OFFICE OF THE PROBATION
DEPARTMENT
225 Cadman Plaza, East.
Brooklyn, N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA,

-against-

AFFIRMATION

VINCENT W. ALBANO,

Defendant.

-----x

GEORGE L. SANTANGELO, an attorney-at-law, duly admitted to practice in the Courts of the State of New York, affirms the following, under the penalties of perjury:

This affirmation is submitted in support of the defendant's motion to contravene and explain certain portions of the pre-sentence report which should be known by the Court prior to sentence. Before setting forth specifically what is erroneous, it is necessary to explain the background and circumstances surrounding the initiation of the Grand Jury's investigation as it existed from the defendant's perspective.

Prior to the institution of Grand Jury proceedings regarding Albano's finances, Special Agents Weinstein and Valente* commenced a criminal investigation of him pursuant to Internal Revenue procedures. Because Albano had been subpoenaed by the Grand Jury some months before

* Weinstein and Valente were at that time attached to and working under A.U.S.A. Thomas Puccio, who apparently ordered and directed the use of Internal Revenue agents for the purpose of his investigatory objectives.

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the Internal Revenue action, it was apparent that the Internal Revenue Service investigation was a ruse being used to further the investigatory objectives of the Grand Jury which were to determine the criminal culpability of those involved in the theft of heroin from the New York City Police Department Property Clerk's Office, the "French Connection" theft*. Albano was understandably concerned that I.R.S. was being used in this manner. Thereafter, the Grand Jury reissued a subpoena to Albano and also issued subpoenas to members of his family**. In the presence of his family and in open court, Albano, it was declared, was a suspect in the "French Connection" theft. So, Albano was branded wrongfully as later events were to establish, as a participant in one of the City's most heinous and publicized crimes.

It was, however, recognized by Albano at the outset that he was guilty of violating the Internal Revenue laws during 1972, 1973 and 1974. Very early in the proceedings, therefore, he offered to plead guilty and negotiations with the prosecutor continued throughout the proceedings. Moreover, Albano cooperated fully with the investigation of both the "French Connection" theft and his finances. Hours were spent with the prosecutor and the special agents answering specific questions regarding Albano's knowledge

* When counsel spoke to A.U.S.A. Puccio in connection with this subpoena, he was told that Albano was suspected of having dealt in narcotics. (At that time, two agents of the Drug Enforcement Administration were present in Mr. Puccio's office). Mr. Puccio did not, however, give specifics. It is now clear that this suspicion was related to the "French Connection" theft.

** Tessie Albano, (mother), Michael A. and Edward Albano (brothers), Sebastian LaRosa, (brother-in-law) and Vincenzina LaRosa, (mother-in-law)

of how or why the "French Connection" theft took place. He also gave handwriting exemplars to the prosecutor voluntarily and explained his relationship with other figures in whom the prosecutor was interested. Hours were also spent detailing how Albano "skimmed" cash from the business he ran starting in 1972.

Counsel believes that the Government is satisfied that no evidence exists to justify Albano's complicity in the "French Connection" theft in any manner whatsoever. After Albano's conferences with the prosecutor, the indictment was sealed in order to give Albano an additional opportunity to contest the figures in conference and, more importantly, to obviate the possibility that newspaper publicity would link him with the indictment of former narcotics detective, Frank King, which indictment was returned on the same day as Albano's by the same Grand Jury. Accordingly, Albano expected to be sentenced for the crimes to which he pleaded guilty - tax evasion and filing false statements. Instead, the pre-sentence report has depicted him as a corrupt narcotics detective on the basis of:

- (a) Speculation as to the source of cash investments made;
- (b) Rumor and hearsay regarding alleged prior illegalities while he was a member of the Police Department;
- (c) Lack of candor with the Probation Officer in preparation of the pre-sentence report;
- (d) Incorrect information regarding his record and separation from the Police Department.

SPECULATION AS TO THE SOURCE OF CASH INVESTMENTS

The pre-sentence report speculates that cash investments could have come from an illegitimate source (p. 9) and that Albano was the source of various cash investments in the names of others.* (pp. 5, 7, 9). An illegitimate source of cash investment is categorically denied by Albano and a hearing is requested in connection therewith. As to the allegations that Albano was the source of cash invested in the names of others, those are denied. However, a hearing regarding this aspect of the pre-sentence report would, in fact, result in a full blown trial of issues which should be tried in the Tax Court relating to Albano's civil liability. When Albano's plea was entered, counsel specifically stated that although Albano admitted guilt, he did not admit the amounts which the Government alleged were due and owing. Albano pleaded guilty because he was guilty of crimes but also for the reason that it was an

* At page 5, agents speculated that Albano was the source of cash given to Michael Albano (\$5,300.00), Michael Albano, Sr. (\$6,000.00) and Tessie Albano (\$9,000.00). At page 7, the report states that an investment of \$27,000.00 into Retim Realty appears to have originated from Albano. At page 9, it is stated that the likelihood of a cash hoard was contradicted by Internal Revenue agents. And at page 8, that \$8,900.00 went from a Retim Realty account into Albano's personal account. All of the above transactions were explained in the Grand Jury and further explained in Albano's account given to the Probation Officer.

exercise in futility to contest part of the Government's case but admit enough to sustain a conviction. It would, therefore, be consistent with a fair administration of the tax laws, both criminal and civil, to allow Albano to contest the amounts civilly, rather than place the burden upon him to contest those amounts as part of a sentencing procedure. Albano's explanations of investments by members of his family were made, in any event, in a detailed statement given to the Probation Officer and included in the pre-sentence report. One further comment deserves consideration before passing from this subject. The Government alleges that members of Albano's family committed perjury before the Grand Jury but it declined to prosecute. That conclusion results from the assumptions made by the Government regarding the source of cash investments made by Albano's family. His mother, brother and brother-in-law denied they were nominees. Again, this issue relates to the amount of taxes actually owed or the amount of money falsely stated as Albano's adjusted gross income. That issue should and will, eventually, be litigated. To paint with so broad a brush is unfair to Albano and denies him an opportunity to fully and fairly contest the issues where they should be contested - in Tax Court.

RUMOR AND HEARSAY REGARDING ALLEGED PRIOR
ILLEGALITIES WHILE ALBANO WAS A MEMBER OF
THE POLICE DEPARTMENT

In three instances, the report depicts Albano as a corrupt police officer. At page 23, it is stated:

"IRS agents advise that they have informant information that the defendant was shot as a result of his personal involvement in a narcotics transaction."

This allegation is categorically denied by Albano and a hearing is demanded to determine whether it is based in fact or fancy. The IRS agents should be required to divulge their informant and the informant should be called to testify under oath. Failing that the allegation should be disregarded.

At page 23, it was stated:

"There were a number of allegations regarding the sale of narcotics and payoffs which were never investigated."

To Albano's knowledge, no allegation was ever made against him regarding the sale of narcotics or payoffs while he was in active duty. If there were allegations made against him, he should be advised now of their substance, of the persons making such allegations and when they were made. Moreover, if these allegations do exist, the persons responsible for investigating such charges should be disclosed to determine why no investigation was ever made. Needless to say, no formal charges were ever preferred against Albano regarding the sale of narcotics or payoffs. It is furthermore incredible to believe that allegations such as these were never investigated. Accordingly, unless substance replaces this invidious type of rumor, it too should be disregarded.

At page 22, it is alleged that the Assistant District Attorney in charge of the Grand Jury investigation of Albano's shooting wanted to seek a contempt or perjury indictment against Albano but could not because of lack of evidence.

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What the Assistant wanted to do was obviously thwarted due to lack of evidentiary support. Its inclusion as a part of the pre-sentence report is highly prejudicial based as it is upon no evidence. Albano is aware of the Assistant's threat to have him held in contempt - but that resulted from Albano's refusal to testify in the Grand Jury because his attorneys, Messrs. Sonnenshine and Evseroff were unable to be present due to their observance of the Jewish holidays. In fact, Albano did testify fully and waived immunity.

LACK OF CANDOR

The pre-sentence report contains the conclusion that Albano omitted assets on his financial statement which he gave to the Probation Officer. These "assets" were the tuition of his children, his future pension payments, the salary of his brother, Edward, which is paid from the liquor corporation and the 1970 Pinto automobile which his wife uses. (Page 24). Counsel was present when the financial statement was given. He explained to the probation officer when he mentioned the aforesaid items, that tuition, pension payments and the salary of his brother, Edward, paid from a corporation, were not assets to be included in a financial statement. In fact, that financial statement was prepared on a form used in the Southern District of New York with the aid of Mr. Harold Coven, Albano's accountant. The information regarding the amounts of tuition, pension payments and brother, Edward's salary, were given to the Probation Officer at that time. The 1970 Pinto was not included because of oversight.

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The report also alleges that Albano failed to report the gain on the sale of his home in his 1975 tax return. Had the Probation Officer requested information regarding the reason for the omission of the sale, it would have been explained in detail. Attached hereto are letters from Albano's tax counsel, Martin I. Menack and his accountant, Harold Coven, which explains, in detail, the reason for its omission. (Exhibits A and B).

Comment was also made in the report that Albano's counsel was present at all interviews and in the main, answered the questions for Albano. Counsel was present in order to prevent mis-statements of fact to be made such as the ones made in the report in spite of his presence. The report concedes that as to each and every question asked, detailed information was given to the Probation Officer by counsel. This position was in keeping with Albano's original cooperative attitude regarding his tax culpability and both his and his counsel's feeling that it was necessary to prevent the Probation Officer from forming conclusions unwarranted by the facts.

INCORRECT INFORMATION REGARDING ALBANO'S DIS-
CHARGE FROM THE POLICE DEPARTMENT

In two instances, pages 12 and 23, the report states that Albano was dismissed from the Police Department for misconduct. In July of 1970, Albano applied for retirement. Immediately thereafter, specious charges were filed against him by the Police Department. There had been other charges, equally as specious, filed against Albano by the Police Department in February of 1970. He waited four months for a hearing on these charges

before filing his retirement papers. No hearing was ever granted or concluded with regard to the charges filed prior to his retirement or those filed after he submitted his retirement papers in July of 1970. In March of 1971, Mr. Justice Tierney of the Supreme Court, New York County, wrote an opinion in the matter of Vincent W. Albano v. Board of Trustees of the Police Pension Fund of the City of New York in which he stated:

"In the case presently before this court, however, respondent has failed to indicate the basis for its denial of petitioner's retirement application. While respondent implies that the application was denied because of charges pending against petitioner, this implication is insufficient to support the discretion exercised by the Board of Trustees in denying petitioner a disability retirement. Furthermore, the respondent has neither indicated to the court the nature of the charges pending against petitioner nor the proposed schedule for the disposition of these charges. Although it appears that charges were filed against petitioner almost a year ago, to the knowledge of this court, no action has yet been taken with regard to their disposition. In view of the foregoing, the court can only conclude that the respondent acted in an arbitrary and capricious manner in denying petitioner disability retirement, and the petition is granted to the extent of directing the respondent Board of Trustees to retire petitioner for ordinary disability under the provisions of Section B18-42.0 of the Administrative Code of the City of New York, effective July 6, 1970.

The full opinion is attached hereto as Exhibit C.

As the opinion indicates as of March of 1971, there was no action taken with regard to the disposition of the charges. Albano did not retire to avoid a hearing on the charges but, in fact, waited four months for a hearing prior to retirement. On the basis of the non-action taken with regard to the charges, it can only be concluded that they are specious and unsupported by any evidence.

In any event, it is clear that Albano was not dismissed from the Police Department but retired.

The pre-sentence report is a compendium of speculation, invidious rumor, erroneous conclusions and mis-statements of fact. It, moreover, omitted important facts which are relevant to sentencing. Omitted was the effect of newspaper articles which portray Albano as a corrupt police officer. The first article, Daily News, September 24, 1976, (Exhibit D), stated that he refused to tell his superiors about his shooting, refused to talk after recovering and was found guilty of departmental charges of making false statements and of failure to safeguard court papers. First, he told his superiors what he knew - that he was shot six times in the chest by an unknown assailant. This is what he said upon entry to the hospital on July 17, 1969, (see Exhibit E)*. Second, as stated earlier, Albano testified without immunity before the Grand Jury and finally he was never found guilty of departmental charges.

On October 20, 1976, after Albano pleaded guilty, the News stated:

"Albano refused to talk, departmental charges were brought against him and he retired on an \$8,400 a year disability pension shortly after." (See Exhibit F)*.

The inference to be drawn from the above article is that Albano retired so he wouldn't have to talk when, in fact, he waited for a hearing before retiring and wasn't granted his pension until March of 1971 over a year after the charges were made.

One further article appeared which deserves comment because of

its omission. In the Long Island Press of October 21, 1976, (Exhibit G), Mr. Puccio is quoted as having said that "there was no proof of illegality involved in Albano's acquisition of the properties." How then does the pre-sentence report speculate about illegally gained cash for investment, narcotic sales, payoffs, etc.

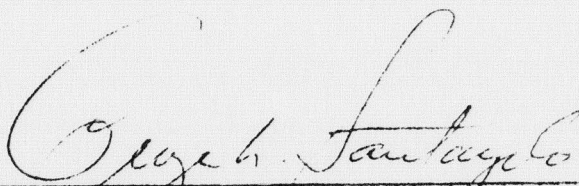
Albano has been placed in the untenable position of having to prove a negative or the smear alone from false accusations will result in an unjust sentence. Moreover, the conclusion of the pre-sentence report that Albano's crime is reprehensible and without mitigation was surely influenced by the allegations that he was personally involved in a narcotics transaction, dismissed from the Police Department, omitted assets on his financial statement and failed to report a gain from the sale of his home on his tax return.

What is more disturbing about the report is that each of the aforesaid allegations could have and should have been investigated by the Probation Officer prior to their inclusion in the report. None of them were nor was the defendant or his counsel asked about them. The failure to do so is itself reprehensible and without mitigation.

Whether this Court can excise from its consideration baseless and erroneous allegations which clearly colored the recommendation in the pre-sentence report can only be answered by the court itself. Intellectual honesty and integrity require it, due process demands it. The error presented herein is so egregious, however, that counsel must request, in the exercise of caution and due regard for the defendant's interests, that the entire report be

13
stricken, a new report ordered based upon fact not fancy and the sentencing of the defendant be adjourned pending the completion thereof. In the alternative, a hearing should be ordered to decide the relevant contested issues, if necessary, and the Court should impose sentence without considering baseless allegations.

Dated: New York, New York
January 27, 1977



GEORGE L. SANTANGELO

C13A

LAW OFFICES
MARTIN I. MENACK
730 THIRD AVENUE · NEW YORK 10017
SUITE 2500
TELEPHONE: 212-573-9218
CABLE: ELLKAYDEE, N.Y.
TELEX: 425298

January 17, 1977

Honorable Jack B. Weinstein
Judge, U.S. District Court
Eastern District of New York
Emanuel Celler Federal Building
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Vincent Albano

Dear Judge Weinstein:

I am writing this letter in connection with the sentencing now being considered by your Honor of Vincent Albano for income tax evasion. Mr. Albano has been my client for a little under two years. I represented him in connection with the investigation by the Intelligence Division of Internal Revenue Service and by Mr. Puccio and the Federal Grand Jury which handed down his indictment. I also represented him and his wife in connection with the sale of their former home in Whitestone, New York on December 9, 1975 and counselled them with respect to the tax effect of that transaction.

I would like to tell you of my impressions of Mr. Albano as a human being about to be sentenced. In my numerous meetings with him I have observed him alone, with his wife a number of times, and with his teen-aged son, and I have formed a positive opinion and impression that he is a loving and devoted father and husband and a loving and caring friend. He has earned the respect and love of those members of his family as well as his brothers, his mother, his in-laws, friends and associates. I have observed Mr. Albano in business and in financial dealings and it is my considered opinion that Mr. Albano is a man of honor, integrity and fairness.

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"A"

MARTIN I. MENACK

I understand that the probation officer commented negatively with respect to a non-payment of tax by Mr. and Mrs. Albano on the sale of their Whitestone house in 1975. Please be advised that Mr. Albano had originally thought that the gain on the sale was required to be reported and tax paid thereon. I pointed out and counselled him that because he had purchased a replacement house within a period of eighteen months prior or subsequent to the sale of that house, the cost of which, together with capital improvements, exceeded the net proceeds on that sale, no tax was due thereon under Internal Revenue Code §1034. I also discussed the matter with Mr. Harold Coven, the preparer of the 1975 income tax return of Mr. and Mrs. Albano who had been fully advised by Mr. Albano of the sale and of my advice.

Lastly, Mr. Albano, his family, friends and associates have, since the investigation by the U.S. Attorney commenced, been unfairly and wrongfully subjected to numerous accusations and allegations of nefarious activities by the U.S. Attorney and his agents. They have suffered financial reverses and incurred business losses as a direct result of these accusations. For a period now approaching two years they have had their personal activities and their personal and financial records pored over and scrutinized by special agents, the prosecutor, members of the grand jury, and now by the probation department of the Court; they have been unable, due to the turnover of their records, to adequately, timely, and with due care to file required tax and other reports with the Internal Revenue Service and other governmental agencies.

Accordingly, I respectfully request, that his Honor consider these facts together with the continued difficulties and long suffering of this defendant and his family's need for his continued guidance and support, in passing sentence upon him.

Very truly yours,

Martin I. Menack
Martin I. Menack

MIM:dd
cc: Santangelo & Santangelo

015A

"A" cont'd

HAROLD A. COVEN
REGISTERED PUBLIC ACCOUNTANT
261 BROADWAY
NEW YORK, N. Y. 10007
212 RECTOR 2-6491

January 6th, 1977

Hon. Jack B. Weinstein
U.S. Court House
225 Cadman Plaza East
Brooklyn, New York

Re: VINCENT ALBANO

Dear Judge Weinstein:

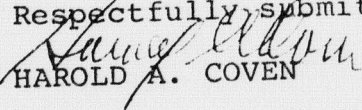
I have been advised that the Probationer's Report in regard to the Federal Income Tax Return for the year 1975 of Vincent and Josephine Albano, did not include the sale of their residence in Whitestone, New York.

I have reviewed the return. The sale was omitted from the return by reason of the fact that Section 1034 of the Internal Revenue Code requires recognition of capital gain thereof only "to the extent that the taxpayers adjusted sales price...." of the old residence exceeds the taxpayer's cost of purchasing the new residence," where the taxpayer purchased a new residence within the statutory period (18 months).

The sale and purchase are required to be included in the return only if a taxable gain is recognized. Since no gain was recognized, it was not a taxable event and therefore not included in the return.

I would like to advise the Court that the omission was in no way intended to exclude any material information relative to the filing of the taxpayers' return. The information with regard to the sale and purchase respectively were furnished by Mr. Albano prior to the preparation of his return.

I respectfully request that this omission not be construed adversely against Mr. Vincent Albano, as in no way did he intend or contribute to the omission of this item, and in fact was unaware that it was not included.

Respectfully submitted,

HAROLD A. COVEN

HAC:B

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"B"

EXHIBIT C -- OPINION OF MR. JUSTICE TIERNEY

SUPREME COURT : NEW YORK COUNTY
SEPCIAL TERM : PART I

-----x
In the Matter of the Application of VINCENT W. ALBANO,
Petitioner,

for a judgment pursuant to Article 78 of the Civil Practice
Law and Rules,

Index No. 11389/1970

-against-

BOARD OF TRUSTEES OF THE POLICE PENSION FUND OF THE
CITY OF NEW YORK, ARTICLE II,
Respondent.

-----x

TIERNEY, J.:

In this Article 78 proceeding petitioner sought (1) an order reviewing and annulling a determination of the respondent Board of Trustees of the Police Pension Fund which failed to retire him on accident (line of duty) disability or, in the alternative, (2) an order reviewing and annulling a determination of the respondent Board which failed to retire him on ordinary (not in the line of duty) disability. While this court, in its decision of December 4, 1970 dismissed the petition, pursuant to petitioner's motion to reargue and upon petitioner's withdrawal of his application for line of duty retirement, the court, by its decision of January 14, 1971, recalled its initial decision insofar as it affected petitioner's right to ordinary disability retirement and restored it to the calendar for de novo determination. The sole issue now before the court is whether the petitioner is entitled to an ordinary discharge pursuant to Section B18-42.0 of the Administrative Code of the City of New York.

Petitioner's medical disability is uncontested and the Police Medical Board recommended his application for ordinary disability retirement be approved. Nonetheless, on May 21, 1970 the respondent Board of Trustees failed so to adopt a resolution approving petitioner's ordinary

disability retirement. The petitioner argues that once the medical board certified his disability, the respondent Board of Trustees was obligated to approve his disability retirement (B18-42.0 Administrative Code of the City of New York) regardless of whether charges were then pending against him. Section B 18-42.0 of the Administrative Code provides: "If * * * medical examination shows that such member is physically or mentally incapacitated for the performance of duty and ought to be retired, the medical board shall so report and the board [or Trustees] shall retire such member for ordinary disability not less than thirty nor more than ninety days after the execution and filing of application therefor with the pension fund" (Emphasis Supplied). The question of the existence of discretion in the board of Trustees to withhold approval of a retirement application after a finding of physical disability by the medical board was considered in *Piernie v. Valentine*, 291 N.Y. 333. In *Piernie* (supra) the court noted " * * * where a member of the police force has been found to be disqualified, physically or mentally, for the performance of his duties such finding does not in itself accomplish retirement * * * * The board [of Trustees] * * *, is not bound to act until it has investigated the charges filed against the petitioner * * * after he applied for retirement * * * ".

In the case presently before this court, however, respondent has failed to indicate the basis for its denial of petitioner's disability retirement application. While respondent implies that the application was denied because of charges pending against petitioner, this implication is insufficient to support the discretion exercised by the board of Trustees in denying petitioner a disability retirement. Furthermore, the respondent has neither indicated to the court the nature of the charges pending against petitioner nor the proposed schedule for the disposition of these

charges. Although it appears that charges were filed against petitioner almost a year ago, to the knowledge of this court, no action has yet been taken with regard to their disposition. In view of the foregoing, the court can only conclude that the respondent acted in an arbitrary and capricious manner in denying petitioner a disability retirement, and the petition is granted to the extent of directing the respondent Board of Trustees to retire petitioner for ordinary disability under the provisions of Section B18-42.0 of the Administrative Code of the City of New York, effective July 6, 1970.

Settle Judgment.

Dated: March 2, 1971.

[signed] C.G.T.
J.S.C.

Filed Sep. 14, 1971, New York County Clerk's Office

Daily News - 9/24/76

No-Tell Narc Is Charged With Having No-Show \$

By STEWART AIN

A onetime New York City narcotics detective, whose visible assets include a string of stores on the lower East Side, was indicted yesterday for allegedly concealing nearly \$195,000 in taxable income over a four-year period.

The former lawman, Vincent W. Albano, 44, of 1534 148th St., Whitehouse, Queens, made headlines when he took six bullets outside a Bronx tavern in 1969. He made more headlines when court records were found on him and he refused to tell his superiors about them.

Yesterday's indictment, filed in Federal Court, charges that Albano failed to report \$194,806.71, thus concealing \$77,442.17 in taxes, for the years 1970 to 1974.

Albano joined the Police Department in 1958, retiring with an ordinary discharge on July 1, 1970, having failed to

His attorney, George Santangelo, acknowledged that Albano now owns a liquor store, an automatic laundry and an ice cream parlor on the lower East Side. The ex-cop pleaded innocent to the tax indictment yesterday before Judge Jack Weinstein, who released him in his own custody.

It was early on July 17, 1969, that Albano was shot and critically wounded outside Chez Joey, a tavern at 2103 Williamsbridge Road, Bronx.

After recovering, Albano was taken to the hospital. The assailant was never found. Investigators reported finding an Albano court minutes of criminal sentencing. He was found guilty of concealing assets and was sentenced to 15 years in prison.

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The Hospital of
The Albert Einstein
College of Medicine

DISCHARGE SUMMARY

PATIENT'S NAME

MED. NO.

DOCTOR'S NAME

LOCATION OR ROOM

ADMISSION DATE

DISCHARGE DATE

CHIEF COMPLAINT:

Multiple gunshot wounds of the chest.

PRESENT ILLNESS:

The patient is a detective who was shot by an unknown person on the way to his car. He apparently attempted to seize the gun from his assailant unsuccessfully. The assailant shot the patient, got up and ran and was shot repeatedly while trying to escape from his assailant sustaining total of 6 gunshot wounds of the chest. He had one which passed through the base of his neck on the right side, one which passed through his left elbow, one which passed through his chest, causing fracture of several ribs, and several additional to a total of 6 which entered the chest less deeply, two of the slugs being located in the anterior and posterior right axilla.

PAST HISTORY:

Essentially unremarkable with the exception of a car accident in which he injured his left knee about 4 months previously. This was apparently an insignificant injury.

REVIEW OF SYSTEMS:

Aside from those items related to his current traumatic injury is negative.

PHYSICAL EXAMINATION:

In addition to the entry and exit wounds from the gunshot, reveals bilateral dullness at the bases with diminished breath sounds. He has good function of the left elbow, but has definite loss of sensation in the right hand. Weakness of the entire right upper extremity was noted.

LABORATORY DATA:

Urinalysis: Normal.

CBC: Hemoglobin 15, hematocrit 42, white count 17,400 and 36% neutros, 8 lymphs, 3 monos and 1 eos.

EKG: Normal.

X-rays: chest x-ray, right shoulder area and left elbow x-rays were taken, and these x-rays revealed sparing of the bony structures in the left elbow and sparing of the bony structures of the right shoulder, with two bullets lodged in the anterior and posterior right axilla. Multiple rib fractures at the lateral aspect of the right chest with numerous portions of slugs scattered throughout the chest. There was a bilateral pneumothorax.

HOSPITAL COURSE:

The patient's wounds were cleaned and dressed on admission, covered with

(CONTINUED)

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DAILY NEWS, 11/1/75

Ex-Drug Cop Pleads Guilty In a Tax Case

★ Former city narcotics detective Vincent Albano, who refused to talk to high police investigators after he was shot outside a Bronx tavern seven years ago, pleaded guilty yesterday to cheating the U.S. out of taxes on \$155,000 in unreported income.

Albano, who owns a waterfront home in Atlantic Beach, L.I., a yacht and a condominium in Florida as well as a small chain of businesses and apartment buildings on the lower East Side, was shot six times outside the Chez Joey Tavern in 1969.

In a briefcase he was carrying, investigators found the minutes of a sentencing proceeding of a reputed major narcotics dealer. Albano refused to talk. Departmental charges were brought against him and he retired on an \$8,400-a-year disability pension shortly after.

Albano was indicted this summer by a federal grand jury in Brooklyn on charges that he bilked the government out of \$77,000 in taxes on \$200,000 in unreported income from 1970 through 1974. His guilty plea yesterday covered the evasion of \$67,000 in taxes on unreported income of \$155,000 for 1972-1974.

Brooklyn Federal Judge Jack B. Weinstein advised the 44-year-old defendant he could receive up to 11 years in prison and \$20,000 in fines on his guilty plea. He will be sentenced in about eight weeks.

Albano's former narcotics boss, Lt. Pasquale Intrieri, began serving a five-year prison term in August for tax evasion.

Assistant U.S. Attorney Thomas Puccio, who handled the Albano prosecution, told the court that Albano is still liable for payment on all the taxes owed, plus penalties.

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Market Merchants

ket" more than

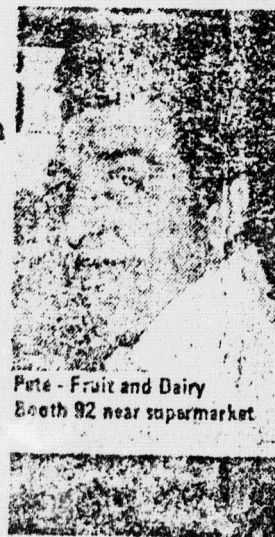
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open 2 days weekly, fri. & sat. 11am-11pm



BASKET
AGS
 1988

...zipper
 ...two
 payments
 back pay
 ...pockets, ball
 check book holder
 ...Booth 314 A...



Pete - Fruit and Dairy
 Booth 92 near supermarket

Narcotics Cop Pleads Guilty In Tax Case

25 Pm 10/1/76

Brooklyn—A former New York City narcotics detective who lives in Atlantic Beach pleaded guilty yesterday to evading \$67,000 in federal income taxes between 1972 and 1974.

U.S. District Judge Jack B. Weinstein said he would sentence Vincent W. Albano, 44, of 75 Bay St., in six to eight weeks. Albano faces a possible prison term of 11 years and a \$20,000 fine. He is free in \$10,000 bond.

The guilty pleas entered in U.S. District Court were to three counts of a 10-count federal indictment that alleged nonpayment of close to \$200,000 between 1970 and 1975. Assistant U.S. Attorney Thomas P. Fucile said Albano faces Internal Revenue Service administrative proceedings for the taxes owed, plus penalties and interest.

Albano was appointed to the police department in 1958 and retired as a third-grade detective in 1970. Court papers on the case said Albano owns a liquor store, a laundry, a candy store and apartment houses on the Lower East Side of Manhattan as well as a Florida condominium and a yacht.

There was no proof of illegality involved in Albano's acquisition of the properties.

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----X
5 UNITED STATES OF AMERICA, :

6 -against- :

No. 76 CR 481

7 VINCENT ALBANO, :

Defendant. :

8 -----X
9

United States Courthouse
Brooklyn, New York

January 31, 1977
9:30 O'clock a.m.

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14 B e f o r e :

HONORABLE JACK B. WEINSTEIN, U.S.D.J.

15
16
17
18
19
20
21
22 PAUL KLIMASZEWSKI
Acting Official Court Reporter
23
24
25

APPEARANCES:

DAVID G. TRAGER, ESQ.,
United States Attorney for the
Eastern District of New York

BY: THOMAS PUCCIO, ESQ.,
Assistant U.S. Attorney

GEORGE SANTANGELO, ESQ.,
Attorney for Defendant

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1 THE CLERK: USA v. Vincent Albano.

2 THE COURT: Is that the file?

3 MR. PUCCIO: No, it isn't.

4 THE COURT: All right gentlemen. Who wishes
5 to present evidence first?

6 MR. SANTANGELO: Excuse me, your Honor?

7 THE COURT: Who wishes to present evidence
8 first; it's your motion, I suppose you do.

9 MR. SANTANGELO: I don't particularly feel,
10 your Honor, that it's my burden to present evidence.
11 There are denials on the record with regard to the
12 serious allegations of the probation report and I
13 believe it's the Government's burden with regard to
14 serious allegations, which I outlined in the applica-
15 tion to present some evidence.

16 THE COURT: Fine. What is the Government's
17 view?

18 MR. PUCCIO: Your Honor, I would just like to
19 say that I don't believe it's Mr. Santangelo's fault
20 at all, but I didn't receive the papers until late
21 Friday, probably because my office has been relocated,
22 but I did go through the papers and I've gone through
23 the probation report and I don't agree with
24 Mr. Santangelo's assertions, and of course in order to
25 go into everything that he alleges incorrect it would

2
3 take quite a bit of time. I'll be willing to do it,
4 of course, your Honor.

5 THE COURT: As I understand it, the basic
6 contention of the probation report is that this is
7 not an ordinary tax evasion case. The defendant got
8 his money when he was a police officer, and the gist
9 of the probation report as I understand it is, he got
10 his money as a corrupt police officer.

11 MR. PUCCIO: Could I elaborate, Judge. I think
12 your Honor has hit on the key point and I might make
13 a statement on that to help clarify things.

14 THE COURT: Either that's the concept or it is
15 not?

16 MR. PUCCIO: It is, your Honor.

17 THE COURT: He denies it and you'll have to
18 submit proof on it because it makes a substantial
19 difference in how he's treated. If he is an ordinary
20 businessman who fell into the coils of the tax law by
21 skating a little close to the edge, it's a very serious
22 offense, but it will be treated one way if he is a
23 corrupt cop who got his money through corruption;
24 obviously it's going to have an affect on the sentence.

25 MR. PUCCIO: As your Honor knows, if we had
specific prosecutable evidence of corruption we would
have prosecuted this case as a corruption case. As a

1 matter of fact, this case bears a similarity to at
2 least one other case which was prosecuted in court,
3 the US against Pasquale and Trerrari and it was prosecuted
4 before Judge Judd in that case there was no specific
5 evidence of corruption. However, there was a great
6 deal of money spent and there was absolutely no
7 explanation offered as to his source.

8 THE COURT: Excuse me. I don't know about
9 Judge Judd's case, I just know about my case. What
10 do you want to do?

11 MR. PUCCIO: Your Honor --

12 THE COURT: Excuse me, are you going to put in
13 any evidence or not, so I know how to handle the
14 matter?

15 MR. PUCCIO: I'll put the agent on the stand.

16 THE COURT: Then put him on the stand, let's
17 see your evidence.

18 MR. PUCCIO: The Government calls Agent Anthony
19 Valenti.
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1
2 ANTHONY VALENTI, called as a witness on
3 behalf of the Government, having first been duly sworn
4 by the Clerk of the Court, was examined and testified as
5 follows:

6 THE CLERK: Please state your name for the
7 record.

8 THE WITNESS: Anthony Valenti.

9 DIRECT EXAMINATION

10 BY MR. PUCCIO:

11 Q Mr. Valenti, you are a special agent of the
12 Intelligence Division of the Internal Revenue Service; is that
13 correct?

14 A That's correct.

15 Q And how long have you been so employed?

16 A Five years.

17 Q Now, you were one of the agents who conducted
18 the investigation of Vincent Albano; is that correct?

19 A That's correct.

20 Q And approximately when did you begin your
21 investigation?

22 A I think --

23 Q Is that your report in front of you?

24 A Yes, it is.

25 MR. PUCCIO: With your Honor's permission, may the

agent refer to the report?

THE COURT: I have no objection. Mark it for identification. Has counsel seen it?

MR. SANTANGELO: I have not seen it. I would ask for a copy if he is going to refresh his recollection.

MR. PUCCIO: Your Honor, I'd give a copy of that portion that the agent would use to refresh his recollection.

THE COURT: Well, all right. Mark it for identification, please.

THE CLERK: Mark this Government's Exhibit 1 for identification.

BY MR PUCCIO:

A I believe we began the investigation in June of 1975.

Q And there was an expenditure investigation; is that correct?

A That's correct.

Q And what years were involved, Mr. Valenti?

A 1970 to 1974 inclusive.

Q As a result of your investigation of expenditures, schedules were prepared either by you or under your direction is that correct?

1
2 A That's correct.

3 Q This is Court Exhibit 158 dated July 20, 1976 --
4 I'm sorry, that's Grand Jury Exhibit 158, it's Court Exhibit 1.
5 Would you examine that document, please?

6 Now, does that document include the schedules
7 that were prepared either by you or at your direction?

8 A Yes, they do.

9 MR. PUCCIO: Your Honor, counsel has a copy of
10 this document.

11 Q Now, according to your investigation Agent Valenti,
12 what were Mr. Albano's expenditures for each of the years
13 involved?

14 A In 1970 there were total expenditures of
15 \$30,769.01, in 1971, total expenditures of \$34,956.18, in
16 1972 total expenditures of \$39,083.56, in 1973 \$80,158.81
17 and in 1974, \$190,418.08.

18 Q You subtracted from those figures the non-
19 taxable receipts of which you gave Mr. Albano credit for as
20 per your investigation; is that right?

21 A That's correct.

22 Q And you arrived at a taxable income, through
23 your investigation; is that correct?

24 A Taxable, yes that's correct.

25 Q You also deducted in each year the amount of

taxable income which was reported; is that correct?

A That's right.

Q For each year, what was the additional taxable income?

A In 1970, \$13,736.14.

1971 is \$26, 097.18.

1972 is \$21,029.18.

Now, 1973 was \$50,752.84 and in 1974 it was \$83,129.34.

Q Now, for that four year period there was an additional taxable income of approximately \$194,808.71; is that right?

A I believe so, yes. And, exclusive of interest and penalties, there was an additional tax owing of \$77,449.17, approximately.

Q Just generally, can you tell us how some of these expenditures were made by Mr. Albano, some of the latter ones?

A Yes, I will.

THE COURT: When was Mr. Albano a member of the police; from when to when?

MR. PUCCIO: He was a member of the police force until July, 1970.

MR. SANTANGELO: He was inactive since July of

1
2 1969, your Honor.

3 THE COURT: What was he doing from '69 to '74?

4 MR. SANTANGELO: '69 to '74, your Honor, he was
5 employed -- well, from '69 to '70 he was inactive in
6 the Police Department, from '70 to '74 he was employed
7 in a liquor store which he own with his mother, after
8 his father died, and they ran the family business.

9 THE COURT: Well, before the Government goes
10 any further, he was earning in '74. How could he be
11 earning it as a police man?

12 MR. PUCCIO: Your Honor, our theory is not
13 that he was necessarily earning money as a policeman
14 in 1974, the reason Mr. Albano was investigated was
15 because while he was a member of the Police Department
16 there was allegations of his dealing in narcotics.

17 THE COURT: Right.

18 MR. PUCCIO: He did leave the Police Department.
19 The fact of the matter is in a four year period,
20 \$194,000 which has yet to be explained.

21 THE COURT: But the theory of the Government's
22 prosecution is that he earned the money between '70 and
23 '74, when he couldn't have earned it as a policeman
24 dealing in narcotics, it seems to me that there is an
25 inconsistency in your view. If he took in a quarter of

1
2 a million dollars or so, was it as a member of the
3 SIU?

4 MR. PUCCIO: No, the Narcotics Division.

5 THE COURT: Just an ordinary narcotics police-
6 man?

7 MR. PUCCIO: Your Honor, I don't think he was
8 an ordinary --

9 THE COURT: I mean, he was an ordinary corrupt
10 policeman?

11 MR. PUCCIO: That would be my position. Your
12 Honor, I think it's more than an ordinary policeman
13 when you are talking about that kind of money. It's
14 obviously our theory that this corruption continued
15 while he was out of the Police Department during the
16 years in question.

17 THE COURT: You mean he was still taking it as
18 a civilian?

19 MR. PUCCIO: [My suspicions are, your Honor,
20 based upon all of the evidence, he was dealing in
21 narcotics during that period because of his close
22 association with King and Interrari and others.

23 THE COURT: Do you have indications he was
24 closely associated with anybody in the Police Department
25 after '70?

MR. PUCCIO: Well, we do but we -- after '70, yes,

1
2 we have indications that he was associated with
3 Interrari.

4 THE COURT: Interrari was what?

5 MR. PUCCIO: A Lieutenant in the Narcotic
6 Bureau.

7 THE COURT: Until when?

8 MR. PUCCIO: Until well, Narcotic Bureau,
9 the beginning of '72 and then he retired in the
10 middle of 1972 and he had been assigned to a different
11 -- I'm sorry, he was in Narcotics until '68. He was
12 in the squad command from '68 to '72, and another
13 assignment; which -- retired in the middle of '72.

14 Your Honor, if I might go even a little further,
15 we have evidence before the Grand Jury there was an
16 association between Albano, Interrari while Interrari
17 was under investigation. I can elaborate on that
18 somewhat.

19 THE COURT: It's just that kind of a suspicion,

20 I don't think it's enough.

21 MR. PUCCIO: I think if the defendant submit
22 an affidavit trying to contradict the probation report
23 indicating that this money was not as a result of
24 corruption, he should at least be able to document
25 where this money has come from. We have \$194,000 which

1
2 does not come from any documents, source, along with
3 that we also have allegations that while he was
4 a member of the Police Department he was involved,
5 actively engaged in the sale of narcotics.

6 THE COURT: What do you have to show on that?

7 MR. PUCCIO: We have a file from the Police
8 Department with a statement of a witness that he
9 purchased heroin in 1968 on three occasions from the
10 defendant.

11 THE COURT: Who is that?

12 MR. PUCCIO: The fellow's name is Right,
13 Clifford Right.

14 THE COURT: Where is he?

15 MR. PUCCIO: I don't know where he is, your
16 Honor.

17 MR. SANTANGELO: If your Honor please, this is
18 totally new to me and to the defendant, and I say
19 if this occurred, this allegation occurred in 1968
20 then something should have been done about it in the
21 police Department. I don't mean as a matter of
22 principle, but something must have been done because
23 Mr. Albano denies even that the allegations were made
24 to him in 1968.

25 THE COURT: Well, it will bear on his character

and if he was selling narcotics he was a policeman in '68, I'll certainly consider it in the sentence that I impose.

MR. SANTANGELO: That's the reason for the application, your Honor.

THE COURT: Let's see what the Government has?

MR. SANTANGELO: Fine.

THE COURT: Thus far I haven't heard anything. I don't see, with all due respect to Mr. Valenti, how he's going to help you. / I mean, I can assume what he says is fact, but he doesn't show any corruption during the period of '70 through '74.

MR. PUCCIO: Anything that he would say your Honor would be of a hearsay nature. If you give me the opportunity I'll try and get some of these people in here.

THE COURT: What did he spend this money for? Was it cash?

THE WITNESS: Yes, most of it was cash.

THE COURT: What did he do with it?

THE WITNESS: He had numerous corporate investments, purchased automobiles for cash, he had it in bank accounts, numerous increases in bank accounts and purchased a hundred thousand dollar CD in 1974.

1
2 THE COURT: Certificate of Deposit?

3 THE WITNESS: Yes, Certificate of Deposit in
4 1974. Some of the money was cash. Other money was
5 traceable to bank accounts in his name or gifts from
6 other individuals, members of his family.

7 He gave \$5300 to his brother to purchase a
8 house in 1974 and that was in hundred dollar bills.

9 THE COURT: All right, I assume he had a lot
10 of cash during that period and there's enough to find
11 him guilty of tax violations, but there's nothing here
12 to show corruption.

13 MR. PUCCIO: There's something else, your Honor
14 which I think should be taken into consideration,
15 although it indicates, indicates in the defendant's
16 moving papers that he cooperated fully with the tax
17 investigation and the investigation of the property
18 clerk that just isn't so. As a matter of fact, the
19 defendant was served with a subpoena in connection
20 with the Interrari investigation.

21 THE COURT: What property; is this the French
22 Connection, is that where you think he got all the
23 cash?

24 MR. PUCCIO: That's our suspicion, yes, your
25 Honor. He was served with a subpoena and he and his

1
2 lawyers came to see us without the Fifth Amendment
3 and, you know, I don't think that should be held
4 against --

5 THE COURT: I certainly wouldn't hold that
6 against him.

7 MR. PUCCIO: But, the fact is the lawyer for
8 Albano stated in his affidavit he fully cooperated.

9 THE COURT: I think he did. He did, he did
10 drag his feet and his family dragged his feet --

11 MR. PUCCIO: Well, this is why I think --

12 THE COURT: But I'm not going to hold that
13 against him, that was tenable under the circumstances,
14 not to cooperate.

15 MR. PUCCIO: I certainly agree, Judge. On the
16 other hand, I don't think it was sensible for his
17 relatives to come in before the Grand Jury, obviously
18 all being represented by the same attorney and in
19 close consultation with him, and to commit perjury,
20 and I think we have a situation here that you have
21 had in several other cases where relatives of the
22 defendant, at the defendant's instruction, committed
23 perjury. Specifically, I'm referring to these cash
24 hoard situations.

25 THE COURT: Well, I think it's hard having

1
2 observed the members of the family to know whether
3 they were committing perjury, on his instructions or
4 on their own desires, and this payment of money they
5 could have gotten it from the family business or from
6 a lot of other things.

7 MR. SANTANGELO: If your Honor please. With
8 regard to the allegation, I think it's a serious one
9 and I address myself to it in the papers.

10 THE COURT: It doesn't make any difference,
11 I'm not holding that against this defendant. I can't
12 hold perjury from others on him without proof of
13 instructions. I went through this, I interviewed them
14 and I think they all insisted on doing it that way and
15 I'm not going to hold he is responsible for that.

16 MR. PUCCIO: While you have a situation where
17 in order to commit perjury, the perjurer must be rather
18 precise. In other words, you must have figures that
19 fit in exactly with the figures that are in question
20 here.

21 THE COURT: No, I will take judicial notice of
22 how other families like the Albano family operate.
23 I saw them here, I'm not sure that this defendant
24 controlled the family. I suspect that one of the
25 matriarchs that I saw control the family.

MR. PUCCIO: I would suggest this isn't so.

THE COURT: Well, it may be so. I don't want to get involved on the sociology of Italian Families because I don't think it's helpful.

What have you got that's hard that shows this fellow was engaged in police corruption, that's the issue?

MR. PUCCIO: What I would like to do your Honor, if it's necessary to show it, I would like to adjourn it to show some of these people.

THE COURT: I'll give you time, of course it is critical, and there isn't any doubt that I'm entitled to consider hearsay on the sentence, and if I conclude ~~that this case is from police corruption~~ it's going to affect the sentence, there is no doubt.

MR. SANTANGELO: If your Honor please, with regards to what Mr. Puccio would like to present with regards to corruption, I would ask for an opportunity for the setting of a hearing date and for basically a bill of particulars and to what he is going to present and who he is going to present.

THE COURT: I don't think you're entitled to know what he is going to rely on, but certainly you can see the documents and get a list of witnesses and

we'll handle it like a regular trial.

MR. SANTANGELO: Thank you, your Honor.

May I have that say five days before the hearing, Judge?

THE COURT: When do you want to set the hearing?

We'll have to adjourn it then. You can step down,
Mr. Valenti.

THE COURT: Did you want to cross-examine this
witness?

MR. SANTANGELO: I have nothing to ask this
witness.

THE COURT: All right, step down.

(Whereupon, the witness leaves the witness stand.)

THE COURT: All right, make the arrangements
between counsel and my law secretary.

MR. SANTANGELO: I want to indicate to the
Court however, that I'm planning on being out of the
country for two weeks in February, probably the next
week and the last week in February.

THE COURT: Well, the next week --

MR. SANTANGELO: Starting approximately Thursday
and Friday, I'm leaving for Greece on Thursday your
Honor and I'll be back the following Friday and then
I'm leaving again on the 25th of February.

THE COURT: Work it out with counsel. I don't

1 want to delay this, I want to bring it to a head.

2 MR. SANTANGELO: I do too, your Honor.

3 THE COURT: There may have to be an appeal in
4 this case, I think the law of the Second Circuit is
5 very clear, and I have written myself extensively on
6 it. The Court is entitled to rely on hearsay in
7 connection with a sentence and I plan to do so, and
8 if I'm convinced that the defendant was a corrupt
9 policeman this will go very hard on him. We start
10 off with a probability of a fairly severe sentence
11 because of the nature of the sustained tax crime here,
12 but there's no doubt this is going to be critical and
13 the number of years that are going to be involved,
14 so we better try it fully.

15 MR. PUCCIO: All right, your Honor, I will try
16 to act as expeditiously as we possibly can.

17 THE COURT: Get together with my law clerk
18 Mrs. Zimmerman and work something out mutually
19 convenient. This is adjourned without date.
20

21 * * * *

43

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA, :

-against- :

76-CR-481

VINCENT ALBANO, :

Defendant. :

-----X

United States Courthouse
Brooklyn, New York

February 22, 1977
11:35 o'clock A.M.

B e f o r e :

HONORABLE JACK B. WEINSTEIN, U.S.D.J.

SENTENCE HEARING

EMANUEL KARR

OFFICIAL COURT REPORTER

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FEDERAL COURT HOUSE, ROOM 362
225 CADMAN PLAZA EAST
BROOKLYN, N. Y. 11201

TEL. ULSTER 2-7105-7106-7107

043A

6

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: THOMAS P. PUCCIO, ESQ.
Chief, Strike Force

GEORGE L. SANTANGELO, ESQ.
Attorney for Defendant

EK/tk

laml

1 THE CLERK: Vincent Albano.

2 THE COURT: All right, call your witness.

3 MR. PUCCIO: I call Clifton Wright.

4 THE COURT: Swear the witness and we will take
5 a break for a minute.

6 C L I F T O N W R I G H T , called as a witness on behalf
7 of the Government, having been duly sworn by the Clerk
8 of the Court, testified as follows:

9 THE COURT: Is there any 3500 material?

10 MR. PUCCIO: Yes, I gave it.

11 MR. SANTANGELO: May we have the prospective
12 witnesses excluded?

13 THE COURT: Yes. All prospective witnesses in
14 the Albano case, please leave.

15 (A ten minute recess was then taken.)

16 MR. SANTANGELO: Your Honor, could we proceed
17 in the normal fashion, I feel uncomfortable.

18 THE COURT: Yes.

19 (The hearing then proceeded with Judge Weinstein
20 seated at the bench.)

21 DIRECT EXAMINATION

22 BY MR. PUCCIO:

23 Q Will you state your name for the record, please?

24 A Clifton Wright.

25 Q Mr. Wright, are you familiar with the defendant,

645A

Vincent Albano?

A Yes.

Q Do you see --

THE COURT: Excuse me.

That mike won't pick up your voice unless you keep your head within about three inches. You have to lean forward, please.

Q Mr. Wright, do you see Mr. Albano in the courtroom today?

A Yes, but he don't look like the same Mr. Albano that I used to know. He seems a little bit older now, and wearing glasses.

Q Well, did the Mr. Albano that you knew -- when did you first meet him?

A Oh, '65.

Q Now, is this gentleman in court the same person?

A Yes.

Q Is there any doubt in your mind about that?

A No doubt in my mind about it.

Q How did he look in 1965?

A More stockier, face more fuller, hair much more blacker.

Q Can you tell the Court, Mr. Wright, the circumstances surrounding your first meeting with Mr. Albano?

A I lived at 2330 Tiebolt Avenue.

Q Can you spell that?

A T-i-e-b-o-l-t.

Q Was that located in Bronx County?

A Yes.

Q Continue, please.

A In apartment 7-K.

Mr. Albano and two more gentlemen alleged to be officers came into my apartment as I was leaving --

Q Do you recall what time of day this took place?

A This was in the evening, around 10:30.

Q And you say, sir, to your knowledge, that Mr. Albano was a member of the Police Department at that time?

A Correct.

Q Tell us what transpired.

A Mr. Albano proceeded to search the place without any warrant or anything and just pushed us all over, him and the other two, all over the apartment.

Q Who else was present in the apartment in addition to yourself, Albano and the two other officers?

A A lady, my girlfriend, Miss Sylvia Cottman -- C-o-t-t-m-a-n- -- and --

Q Now --

A And another fellow was in there, too, but they

let him go.

Q What was his name?

A All I ever knew was John, I could describe him for you.

Q Can you describe him, please?

A Yes.

He stood about five foot two, stocky built, he was Italian.

Q Now, Mr. Wright, did you have any money in your apartment on this occasion?

A Yes.

Q And approximately how much money did you have?

A \$3,000 in one spot.

Q Where was that spot?

A In the dresser drawer, in the bedroom, in the bottom dresser drawer in the bedroom.

Q And did you have any jewelry in the apartment?

A Yes.

Q Now, did anything happen with respect to that money and jewelry?

A They had took the money and had a ring of mine, and I had two rings, and they permitted me to make a call.

Q They permitted you to make a telephone call?

A Yes.

1

2

Q And whom did you call?

3

A I called a friend of mine, happened to be a

4

Federal agent.

5

A What was his name?

6

A His name was Smithy, I call him Smithy, I didn't,

7

I didn't know his whole name at that time.

8

Q Were you able to reach Smithy by telephone?

9

A Yes.

10

Q And what did you ask Smithy to do, to come over?

11

A Yes.

12

Q And after your telephone conversation, did

13

Smithy in fact come to the apartment?

14

A Yes.

15

Q And was anyone with him?

16

A Yes.

17

Q Who?

18

A It was another agent with him, which I learned

19

later that his name was Douer.

20

Q Douer?

21

A Douer.

22

Q Now, what took place after Smithy and Douer

23

arrived at the apartment?

24

A I shut up and they went in to discussion with

25

these officers.

- 1
- 2 Q And what happened after the discussion?
- 3 A Something that he had alleged was supposed to
- 4 have been some narcotics they found somewhere in the kitchen.
- 5 Q Who alleged?
- 6 A I knew him as Vinnie, Vinnie did.
- 7 Okay?
- 8 And what they had wanted from me in return for it.
- 9 Q Will you explain that, please?
- 10 A What they had wanted from me in return for that.
- 11 Q Can you explain what you mean by that?
- 12 A He wanted me to have more money, otherwise he
- 13 was going to lock me up.
- 14 Q That is what Mr. Albano said?
- 15 A Lock me and Sylvia up, they had left Johnnie
- 16 go there.
- 17 Q What happened?
- 18 A I don't understand what you mean.
- 19 Q You indicated that Albano said he was going to
- 20 lock you up and lock Sylvia up?
- 21 A Yes.
- 22 Q Did that in fact happen?
- 23 A No.
- 24 Q Why didn't it happen?
- 25 A Yes, because Smithy and they came and put the

cards on the table.

Q Can you explain to us?

A Well, they had the discussion, from that discussion they found that I was working with Smithy on cases.

Q You were working with the Federal agents; is that right?

A Yes.

Q And are you saying, Mr. Wright, as a result of that that you were not arrested?

A Yes.

Q Well, did you have any narcotics in your apartment on that day?

A No, I had nothing in my apartment other than money.

Q Well, do you recall what reason Mr. Albano gave for -- withdrawn.

Did Mr. Albano tell you that you had been placed under arrest initially?

A Yes.

Q Did he give a reason or a charge?

A He was charging me with this white powder he got out of the kitchen cabinet --

Q Yes?

A And that was supposed to have been narcotics.

Q What was it?

A Smithy said, Smithy and them said it was some flour that they had got out of the can.

Q Now, after this occasion, did you see Mr. Albano again?

A Of course I did.

Q Where did you see him?

A I used to go from -- I used to be in 136th Street and Lenox Avenue --

Q In Manhattan?

A In Manhattan.

And one day after that, this is about nine or ten months later, maybe longer than that, Mr. Albano approached me there on the corner as I was going around 136th Street --

Q Well, was there -- By the way, do you know the names of any of the detectives who were with Mr. Albano on this first occasion in your apartment?

A No, all I know is what they says, one name was Johns, the man was sort of stocky built, about five eleven or possible six feet, sort of, the other man was supposed to have been a sergeant who sat on the couch.

(continued nextpage)

1
2 Q Was there another occasion, Mr. Wright, when
3 Vinnie and John approached you when you were in your
4 automobile?

5 A Yes.

6 Q All right.

7 What year did that take place?

8 A This took place in 1965.

9 Q All right.

10 And where was your automobile parked at the
11 time?

12 A I was going across 125th St. and I was stopped
13 by them at between 125th St. and 124th St.

14 Q All right.

15 What happened on that occasion?

16 A I had money on me again.

17 Q How much money?

18 A I had \$3,400.

19 Q And where did you obtain this money?

20 A I obtained this money because I took policy.

21 Q All right.

22 Tell us what happened on that occasion?

23 A They took the money off of me.

24 Q Was there any conversation?

25 A Yes.

Wright-direct

2

1

2

Q Tell us as best you can recall what was said.

3

A They said they were going to confiscate my car, going up to my apartment, and then there was going to be some narcotics up there. They were going up to my apartment and after that they are going to lock up Sylvia and lock up me and told me if I didn't bring some money, money around Lenox Terrace, this was going to happen.

9

Q All right.

10

Well, what did you say, if anything?

11

A I agreed to go to bring them more money.

12

Q How much money?

13

A \$10,000.

14

Q And where was the Lenox Terrace located?

15

A The part that they -- we had agreed to meet in was on 132nd, that is between Lenox and Fifth.

17

Q Did you agree to meet at any specific time?

18

A No -- before one o'clock.

19

Q In the morning?

20

A Yes.

21

Q About what time were you stopped; do you

22

recall?

23

A Oh, it must have been about 10:30.

24

Q Now that's ten thirty in the evening?

25

A Yes.

0544

1
2 Q Tell us what, if anything, you did after this
3 conversation with Albano and his partner?

4 A After they let me go I went direct to the
5 precinct, the 32nd Precinct.

6 Q And were you familiar with some people in that
7 precinct?

8 A Yes.

9 Q You had been in the policy business for a number
10 of years; is that correct?

11 A Yes.

12 Q And as a result of your business, did you become
13 familiar with various members of that precinct?

14 A Yes.

15 Q All right.

16 Now, what did you do at the 32nd Precinct?

17 A I went to see the Captain.

18 Q What was his name?

19 A His name was McCann.

20 Q All right.

21 And for how long a period of time did you know
22 Capt. McCann, prior to this evening?

23 A Not personally but from within the community.

24 Q All right.

25 By the way, do you know what a pad is,

Wright-direct

1
2 Mr. Wright?

3 A Yes.

4 Q And was there a pad in existence in the
5 32nd Precinct at that time relative to gambling?

6 A Yes.

7 Q Now, will you tell us what you told Capt. McCann?

8 A I told him what had occurred to me.

9 Q And what, if anything, happened?

10 A In return he called another lieutenant,

11 Lt. Abbott.

12 Q And what took place after Capt. McCann called

13 Lt. Abbott?

14 A They told me to go and make my meet with them.

15 Q Excuse me?

16 A They told me to go and make the meet with them.

17 Q All right.

18 Did they tell you anything else?

19 MR. SANTANGELO: Objection, your Honor.

20 THE COURT: Overruled.

21 A Yes, just go around there and make my meet
22 with them and pretend that I have the money that they wanted.

23 Q All right.

24 Did you in fact do that?

25 A Of course I did.

656A

1
2 Q In other words, you went to the area of
3 the Lenox Terrace?

4 A Yes.

5 Q And what happened?

6 A There were some more officers.

7 Q Officers from where?

8 A From the 32nd.

9 Q Was Mr. Albano there and his partner?

10 A Yes.

11 Q What transpired?

12 A Well, the other officers got my money back.

13 Q Well, can you give us a little bit more detail,
14 tell us step by step what happened?

15 A Well, when the officer hit the car, he was in
16 a black Ford --

17 Q Who was in a black Ford?

18 A Mr. Albano and the other one.

19 When the officer hit their car, I didn't have
20 any more to say.

21 Q Did you see what happened?

22 A They searched them and took their guns.

23 I just standing by. Mr. Abbott had drawn his
24 rank on them.

25 Q He drew his what?

1 Rank? Rank?

2 A Yes.

3 Q And the officers from the precinct took away
4 Albano's gun and his partner's?

5 A They all went back to the 32nd.

6 Q And did you see them take away Albano's gun?

7 A I can't say that, sir, no.

8 Q Then what happened back in the 32nd Precinct?

9 A I went in there and they had my money.

10 Q Who had your money?

11 A Mr. Abbott.

12 Q And did Mr. Abbott give you the money back?

13 A Yes.

14 Q Do you know if Mr. Albano and his partner were
15 taken to the 32nd Precinct?

16 A Yes, they were in the back room, the 32nd
17 Precinct is in the front. Then there is back. In the back
18 there is a little vestibule -- sorry, your Honor -- not a
19 little vestibule, a place where you go in when you go into
20 the 32nd Precinct and after you leave the desk.

21 Q Who were they back there?

22 A If I'm not mistaken, it's approximately three
23 or four officers.

24 Q From the 32nd Precinct?

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A Yes. From there they went upstairs.

Q Now, do you know if any of the officers of the 32nd Precinct had any conversations with Mr. Albano and his partner?

A No.

Q Now, Mr. Wright, did you have any narcotic transactions with Mr. Albano?

A Yes.

Q How many, on how many occasions?

A Three.

Q Now, I'd like you to relate for us all of the circumstances surrounding your first narcotics transaction with Mr. Albano.

A He approached me one day. I was coming around Lenox Avenue going towards, up 136th to the club.

Q All right.

In what year did this take place, if you can tell us, and what month it took place, and please tell us.

A The latter part of 1967.

Q Was it in approximately December of '67?

A Yes.

Q And you were on your way towards the place you refer to as the club?

A Yes.

1

Q And what was the address of the club?

2

A 117 West 136th St.

3

4

Q And what kind of club was it?

5

A Where we play cards.

6

Q Were you affiliated with this club, Mr. Wright?

7

A Yes.

8

Q Now, on this occasion when you met Mr. Albano,

9

were you engaged in the policy business?

10

A Yes.

11

Q And were you making your rounds at that time?

12

A Yes.

13

Q And tell us when Mr. Albano approached you,

14

was he alone or was someone with him?

15

A He was alone.

16

Q Now tell us as best you can recall what

17

Mr. Albano said to you and what you said to him.

18

A He asked me could I have some -- we don't use

19

the term narcotics --

20

Q What term do you use?

21

A Duggie.

22

Q Do you know how to spell that?

23

A No, I never tried to spell it.

24

Q Okay.

25

THE COURT: Say it again?

1 THE WITNESS: Duggie, D-u-g-g-i-e, I think.

2 THE COURT: Duggie? I never heard of that.

3 MR. PUCCIO: It is a slang word for drugs,
4 your Honor, duggie.

5 THE COURT: You haven't informed me of this
6 before.

7 BY MR. PUCCIO:

8 Q Now, well, tell us what he said as best you can
9 recall.

10 A He asked me could I handle some -- could I
11 handle some of it and I asked him depending on what kind of
12 quality he had.

13 Q And what did he say?

14 A He said, "Well, you can see I got pure" -- we
15 didn't call it pure, we call it "virgin."

16 Q Virgin?

17 A Yes.

18 Q Well, after you had this conversation with
19 Mr. Albano, what happened?

20 A We discussed the quality he had and I asked --
21 I made a couple of telephone calls and I told him go
22 around to 22 West and I would discuss it further.

23 Q What was 22 West?

24 A That is the restaurant.

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Q The restaurant called 22 West?

A Yes.

(continued next page)

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Q That was located at 27 W. a hundred what?

A 35th Street.

Q And you arranged to meet him there?

A Yes.

Q And did you, before you met with Mr. Albano,
get in touch with someone?

A Yes.

Q And who was the individual you got in touch
with?

A A fellow by the name of Zac, we call him.

Q Is his full name Zac Robbinson?

A Yes.

Q And where did you get in touch with Zac
Robinson?

A At the grocery store.

Q Was that Zac Robbinson's grocery store?

A Yes.

Q And did you have a conversation with Mr. Zac
Robinson relative to your conversation with Mr. Albano?

A Yes.

Q And tell us as best you can recall what you said
and what zac said?

A I explained to Zac that officers had got some
hand on some heroin -- and we didn't call it heroin.

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Q You called it duggie?

A Duggie, duggie.

Q Duggie, all right.

A Or stuff, that's what we call it, stuff. And he said he got some and wanted to know whether he would be interested and I was supposed to meet him around 22 West, and I explained to him his name was Vinnie, all right, and Zac had often seen Vinnie and he --

MR. SANTANGELO: Objection, your Honor.

THE COURT: Why?

MR. SANTANGELO: The testimony is, he said that Zac had often seen Vinnie, it's not within his knowledge.

THE COURT: What is the objection.

MR. SANTANGELO: Excuse me, excuse me.

THE COURT: How do you know he had often seen him?

THE WITNESS: From -- from -- Vinnie was -- he was, you know, in Harlem quite often.

THE COURT: I will take it.

BY MR. PUCCIO:

Q What did Zac say about the narcotics?

A O.K.

I told him it was Vinnie, he sort of become

relucttant.

All right?

Then he said, "be careful when you go around to see him, be really good and careful."

So I go around to see him but before I got there Zac asked me during the discussion when I walked out of the 22nd --

Q You mean that after you spoke to Zac in the grocery store you kept your appointment with Vinnie at 22 West; is that right?

A Yes.

Q What happened then?

A He and I discussed the merchandise he had --

Q All right.

A And we in turn -- I went out and called, called Zac.

Q Well, where did you call Zac from?

A From the lobby of 22 West.

Q What was the purpose of doing that?

A So Zac could see exactly who Vinnie was, see if he was the same person.

Q All right.

And after the telephone call, did you walk outside of 22 West with Vinnie?

A Yes.

Q What happened after that?

A Well, we negotiated, we -- I told him, I told him to come around to the club and bring the thing around there.

Q All right.

And subsequently, did he come around to the club?

A Yes.

Q That same day?

A Yes.

Q What time; do you recall?

A About four thirty.

Q And tell us what transpired when Vinnie arrived at the club?

A I tested it with the acid test.

Q Tell us first what happened?

He walked in; is that correct?

A Yes.

Q And did he have anything with him?

A Yes, he had a paper bag.

Q Did he show you what was inside the paper bag?

A Yes, after we walked through the skin table.

THE COURT: A what?

THE WITNESS: A skin table.

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THE COURT: A skin table?

THE WITNESS: Yes.

THE COURT: What is a skin table?

THE WITNESS: That is the card game that we play.

THE COURT: I see.

BY MR. PUCCIO:

Q After you walked by the skin table, what
happened?

A I took a package out of this same and stuck a
pin in it --

Q Yes.

A Put a little bit on the saucer and put some acid
on it.

(Continued.)

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GRsf
2am/1

Wright-direct

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BY MR. PUCCIO: (Cont'd.)

Q Did the powder turn a different color?

A Yes.

Q What color did it turn?

A Real dark green.

Q What did that indicate to you?

A Good stuff.

THE COURT: What kind of acid do you use?

THE WITNESS: Hydrochloride.

THE COURT: You used hydrochloride?

THE WITNESS: Yes.

THE COURT: Is that that the United States
Government people use?

MR. SANTANGELO: I don't believe so, your
Honor.

MR. PUCCIO: We don't have any chemists here,
your Honor, but it is a legitimate field test, from
what I can -- from what I understand.

THE COURT: I know. I've heard about these
field tests. This is the first time I've heard
somebody from the other side conduct such a field
test. It's just interesting.

BY MR. PUCCIO:

Q All right.

663A

Mr. Wright, after you tested the narcotics,
what happened?

A I gave him \$10,000.

Q And where had you obtained that \$10,000?

A From Zack.

Q Now, what happened to the package of narcotics?

A I gave it to an associate of mine.

Q What is his name.

A They call him Apple.

Q Apple?

MR. SANTANGELO: What is that? Apple?

THE WITNESS: Apple.

Q Now, Mr. Wright, how much heroin did Mr.
Albano give you, what was the quantity?

A What we call a half. A half a kilo.

Q Half a kilo?

A Yes.

Q Now, when was the second transaction, narcotics
transaction you had with Mr. Albano?

A It was in the early part of February of '68.

Q And can you explain to the Court, the circum-
stances surrounding that second transaction?

A It was mostly the same procedures.

Q Well, explain to us --

THE COURT: I don't want the details. Just

tell us the amount and how much you paid.

Q How much did you pay on the second occasion?

A I bought two halves. A whole. A whole kilo.

Q An entire kilogram?

A Yes.

A And how much did you pay?

A Twenty thousand.

Q Did you deliver the 20,000 directly to Mr.

Albano?

A Yes.

Q And had you obtained this 20,000 from Zack

Robinson?

A Yes.

Q Let me ask you this, Mr. Wright. Did Mr.

Albano personally deliver to you this kilogram?

A No.

Q How -- can you just tell us briefly where you

obtained that kilogram?

A From a place over on SaSalle Avenue.

Q What was the address?

A 122.

Q And who gave you the kilogram?

A It was a young lady.

4 1

2 Q What did she look like?

3 A She was sort of -- I got to say white. She
4 could have been Puerto Rican. Could have been Spanish. I
5 don't know.

6 Light skinned lady.

7 Q And which apartment did she occupy in that
8 building? As best you can recall?9 A You go up the steps, one flight. The
10 apartment was over to your right.11 Q And did anyone tell you to go to that
12 apartment?

13 A Yes.

14 Q Who?

15 A Vinnie.

16 Q And did you have any conversation with the
17 lady?18 A No. No more than I just give her what I
19 was supposed to do. Yes, I asked her for change of a
20 quarter. That's all the conversation I had.21 Q Was that by prearrangement, that you would ask
22 for a quarter?

23 A Yes.

24 Q She gave you the package with the kilogram
25 in it?

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A Yes.

3

Q And when you went downstairs, was Vinnie

4

down there?

5

A Yes.

6

Q And he gave you the money at that time?

7

A I gave him the money.

8

Q I'm sorry. And you gave him the 20,000?

9

A Yes.

10

Q Now, was that kilogram a good quality narcotics?

11

A Yes.

12

Q And when was the third narcotics transaction

13

you had with Mr. Albano? As best you can recall?

14

A It was about two or three months later.

15

This --

16

Q All right.

17

Does your Honor -- Judge, do you want any

18

details on this or just the amount and price paid?

19

THE COURT: Just whether he paid cash to the

20

defendant. That's all.

21

Q Now, how much did you purchase on this third

22

occasion?

23

A This wasn't the same quality.

24

Q And --

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A It makes a lot of difference, a lot of things.

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Q What do you refer to it as?

A Scramble.

THE COURT: As what?

THE WITNESS: Scramble.

Q Scramble.

THE COURT: I didn't hear.

MR. PUCCIO: He refers to the third -- the narcotics in the third transaction as scramble, which is another slang term.

THE COURT: How do you spell that?

MR. PUCCIO: I assume you spell it s-c-r-a-m-b-l-e like scrambled eggs.

THE COURT: What does that mean? It's not -- it's not as virgin? How many times is that cut, scrambled?

THE WITNESS: You don't know what the first quality was but you know that's on the street, street -- street.

THE COURT: That is ready for the ultimate consumer?

THE WITNESS: Yes.

THE COURT: Scrambled.

BY MR. PUCCIO:

Q Now, how much did you pay for this?

1

2

A \$4,000.

3

Q And did you personally deliver the money to

4

Vinnie?

5

A Yes.

6

Q And where did this transaction take place?

7

A At the club.

8

Q Was this a different club, by the way?

9

A Yes.

10

Q Where was this club located?

11

A On 7th Avenue.

12

Q Now, did Vinnie personally deliver this

13

quantity of scramble to you?

14

A Yes.

15

Q And about how much did it weigh, approximately?

16

A I would say something like 16, possibly 18

17

ounces.

18

Q Is that the last transaction that you had with

19

Mr. Albano?

20

A Yes.

21

Q Now, Mr. Wright, you recently finished

22

serving a federal sentence for violation -- sentence for

23

violation of the narcotics laws, is that right?

24

A Yes.

25

Q And as a matter of fact, you have a state

1 sentence yet to be served, is that correct?

2 A Yes.

3 Q Of 15 years?

4 A Yes.

5 Q And what was the charge there?

6 A Kidnapping.

7 Q Now, have you been informed by me that your
8 testimony at this hearing would be made known and your
9 cooperation with the Government would be made known to the
10 state authorities?
11

12 A Yes.

13 Q Do you know of your own knowledge, Mr. Wright,
14 where Mr. Albano was obtaining the narcotics that he gave
15 you?

16 A No, I don't.

17 Q Did you ever have any discussions with anyone
18 in the -- in your community up in Harlem about where these
19 narcotics were coming from?

20 A Yes.

21 Q And can you tell us what these discussions --
22 the substance of these discussions --

23 MR. SANTANGELO: Objection, your Honor.

24 THE COURT: I think this is too remote.

25 MR. SANTANGELO: I'm sorry, your Honor?

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Wright-direct

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THE COURT: Sustained. Hearsay is admissible

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at these hearings on sentencing but this seems too

4

remote.

5

BY MR. PUCCIO:

6

Q Well, did there come a time when you heard,

7

Mr. Wright, that Vinnie had been shot?

8

A Yes.

9

Q And did you have any discussions with anyone

10

concerning this shooting?

11

A It's normal procedures for us to discuss

12

different --

13

MR. SANTANGELO: Objection, your Honor. Not

14

responsive.

15

THE COURT: I'll permit that part of it.

16

Q All right.

17

And can you -- was there any discussion among

18

you and your associates as to why Mr. Albano was shot?

19

MR. SANTANGELO: Objection, your Honor. Pure

20

speculation, your Honor.

21

THE COURT: Yes, I think this is a little

22

remote.

23

MR. PUCCIO: I have no other questions.

24

25

CROSS-EXAMINATION

BY MR. SANTANGELO:

Q Mr. Wright, you say you met Mr. Albano in the latter part of '65 or the early part, middle part?

A Early.

Q Early part of 1965.

Now, during that period of time, were you working with a federal agency?

A Yes.

Q Was that agency the Bureau of Narcotics and Dangerous Drugs?

A Yes, I think so.

Q And you were working as an informer, were you not?

A Yes.

Q You were helping them make arrests, is that right?

A Not arrests. Case.

Q Cases. You were telling them about people who were dealing in heroin, is that right?

A Right.

Q That was in the early part of '65?

A Right.

Q And this had been going on for how long?

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A A couple of years.

Q Well, you were in fact arrested in 1961 for
a narcotics violation, weren't you?

A No. I was not arrested.

Q Well, you were --

A That was in '62, I think, what you are
referring to.

Q '62 was it? But you and this fellow Smitty
met in 1962, is that right?

A Right.

Q And he had some evidence about you dealing
in narcotics, is that what it was?

A He said he had some evidence.

Q And in return for not prosecuting you, you
agreed to act as an informer for him, is that right?

A Yes.

Q And you did so up until at least we know early
1965, is that right?

A Yes.

Q Now, you mentioned somebody by the name of
John, who was in your apartment that night?

A Yes.

Q Do you know his last name?

A No. I wish I did.

- 1
2 Q Did you ever deal with him?
3 A Of course I did.
4 Q And when Mr. Albano and his other people came
5 into the apartment, John was there, wasn't he?
6 A Yes.
7 Q And were you discussing a narcotics deal with
8 John at that time?
9 A No.
10 Q Okay. Were you doing any kind of a trans-
11 action with John at that time?
12 A No. We was talking about some horses and
13 different numbers.
14 Q When was the last time you had dealt with
15 John prior to that night?
16 A '64.
17 Q '64.
18 Now, when they walked in the apartment they
19 let John go, didn't they?
20 A Yes.
21 Q Did you have any suspicion about John at that
22 point?
23 A Of course I did.
24 Q What did you think?
25 A John must have brought him there for the

shakedown.

Q Well, did you think that John may have told him that you were dealing in narcotics with him?

A Of course I did.

Q Did you think that John may have been an informer like you?

A Of course, yes.

Q When they came into the apartment, they came in with guns drawn, didn't they?

A Yes.

Q And they came in fast, didn't they?

A Yes.

Q You've been arrested before that time, haven't you?

A Of course I have.

Q Every time you were arrested you were arrested with guns at your head, right?

A Right.

Q And you were put up against the wall, right?

A Right.

Q Okay. And you were moved around from place to place, right?

A Right.

Q Okay.

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2

You got to a phone that night, didn't you?

3

A Yes.

4

Q Did you ask to get to a phone?

5

A Of course I did. How do you think I could

6

get there?

7

Q Did you tell them who you were going to call?

8

A No.

9

Q But they said, okay, to going to a phone,

10

right?

11

A Yes. Because they assumed I could get my

12

hand on some more money.

13

Q They assumed that. Is that what you told

14

them?

15

A Of course I did.

16

Q Whom did you call?

17

A I called Smitty.

18

Q He came over, is that right?

19

A Yes.

20

Q And Smitty told Albano and the other people

21

there that you were an informer, isn't that right?

22

A I don't know what Smitty told them.

23

Q You were an informer?

24

A I was informer for Smitty.

25

Q Okay.

1
2 You were working for the Federal Government
3 at that time, right?

4 A Right.

5 Q Now, while you were working for the Federal
6 Government at this time, in 1964, did you tell the Federal
7 Government about your dealings with John, the fellow who
8 was in the apartment? Is the smile yes or no?

9 A Yes.

10 Q Did you tell, in 1964, Smitty about your deals
11 with John?

12 A Yes.

13 Q Was John arrested?

14 A Yes.

15 Q And John, at that time, after his arrest,
16 was talking to you, right?

17 A John hadn't been arrested. They hadn't picked
18 him up at that time.

19 Q I see.

20 So in '65, although you had told the Federal
21 government about John, who you had dealt with in '64, he
22 hadn't been arrested yet, is that right?

23 A Not at that time.

24 Q Oh. Did Smitty tell you what he was waiting
25 for?

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A No. I never asked him.

3

Q You never asked him. Did you ask Smitty

4

what he was waiting for?

5

A No.

6

Q Weren't you worried that a guy you were

7

dealing with and whom you were informing on was out on the

8

street?

9

A No.

10

Q Why weren't you worried about it?

11

A Why should I be?

12

Q Maybe you had nothing to worry about because

13

you didn't know anything?

14

MR. PUCCIO: Is that a question?

15

MR. SANTANGELO: That is a question.

16

A Is that a question?

17

Q Yes.

18

A I don't dig -- I mean, I don't quite under-

19

stand.

20

Q You were walking around with a clear head in

21

Harlem?

22

A That's right.

23

Q After informing on a guy, right, and he's

24

not arrested? For a year?

25

A Yes.

1

2

What is that for me to worry about?

3

Q Nothing to worry about?

4

A No.

5

Q Okay.

6

Now, they searched the apartment, right?

7

A Yes. Tore it up.

8

Q Did you have narcotics in the apartment?

9

A No.

10

Q You ever have narcotics in the apartment?

11

A I don't use narcotics nor did my friends.

12

Q Did you ever store it there?

13

A No.

14

Q Did you tell them that?

15

A I didn't have a chance to tell them nothing.

16

Q Did you have a chance to make the phone

17

call?

18

A Yes.

19

Q When Smitty and Dower came, and they spoke to

20

Albano and the people who were with Albano, they left and

21

you weren't arrested, is that right?

22

A Correct.

23

Q And you continued from early '65 to inform

24

for the Bureau of Narcotics and Dangerous Drugs, is that

25

right?

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A Yes.

Q Now, did there come a time in 19 -- by the way, withdrawn.

Q You were living at -- what, Tiebout Avenue in the Brc

A Yes.

Q Did you have a phone?

A Yes.

Q And did you continue living there until 1969?

A Yes.

Q You never changed your residence?

A No.

Q The same apartment, right?

A Yes.

(Continued on next page.)

T2AMR2
KG:gr

Wright-cross-Santangelo

1
2 Q Okay. Now, did there come a time in 1965 when--
3 withdrawn. During 1965, you were in the policy business
4 too?

5 A Yes.

6 Q Okay. And you operated in the Harlem area?

7 A Yes.

8 Q And what was your job in the policy business
9 at that time?

10 A I don't quite understand what you mean.

11 Q What did you do every day?

12 A What capacity I was in?

13 Q Were you a collector, a runner, a bank; what
14 were you?

15 A I was a collector.

16 Q You were a collector?

17 A Yes.

18 Q Okay. What did you do, collect bets from
19 various people on the street?

20 A Yes.

21 Q And did you ever pay any policemen in the
22 32nd Precinct in connection with your policy business?

23 A Yes.

24 Q You paid them personally?

25 A Yes, but you have to go way back.

CS5A

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Wright-cross

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Q Oh. How far back was that?

3

A Around the first -- around '60.

4

Q In '60?

5

A Yes.

6

Q That was when you started paying them, or when you did pay them?

8

A Occasionally I used to give an officer his vig.

9

10

Q Occasionally?

11

A Yes.

12

Q This was in 1960?

13

A '60, '61.

14

Q Did it continue through 1965?

15

A Occasionally still I would give officer a gift.

16

Q Okay. Did you ever deliver any money to Captain McCann?

18

19

A No.

20

Q Did you ever deliver any money to Lieutenant Abbot?

21

22

A No.

23

Q Did you ever deliver any money to Lieutenant Greenfield?

24

25

A No.

Wright-cross

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Q Did you ever deliver any money to anybody
in the 32nd Precinct?

A You are talking about personally?

Q Yes.

A No.

Q You were arrested in February of 1969; weren't
you?

A You calling it arrest.

Q Well?

A Yes.

Q Somebody came over to you and grabbed you?

A Yes. Mr. Taylor grabbed me on Seventh Avenue.

Q Who is Mr. Taylor?

A That's all I know.

Q After that you went ot talk to a person in the
police department by the name of MaGuin (phonetic), didn't
you?

A No.

Q You never spoke to a Mr. MaGuin?

A If I have, so -- not of my knowledge.

Q Captain MaGuin?

A Not of my knowledge.

Q From the Internal Affairs Department?

A Not of my knowledge.

033A

Wright-cross

Q On February 12, 1969?

A No.

Q Didn't you tell Captain MaGuin that you make regular payoffs to the police in the 32nd Precinct?

A No.

Q You didn't tell him that?

A No.

Q Didn't you tell him that you had the 32nd Precinct on the pad for 1600 a month?

A I didn't tell that to no Mr. MaGuin.

Q No. Didn't you tell him that you paid the Sixth Division of Detectives \$1600 a month?

A Not no -- not no Mr. MaGuin.

Q Did you tell somebody that?

A Yes.

Q All right. And you a collector were paying 3200 a month to the precinct and to the division; is that right?

A Yes.

Q And paying \$3200 a month, you never handed it to a policeman personally; is that right?

A No.

Q And you never met the captain of the precinct or the lieutenants, did you?

G33A

Wright-cross

- 1
- 2 A Yes. I met them.
- 3 Q Forget about the time you say you met them in
- 4 1966.
- 5 A They have --
- 6 Q With regard to Albano?
- 7 A NO.
- 8 Q You never met them before that, right?
- 9 A Yes.
- 10 Q When did you meet them?
- 11 A We have -- we used to have a thing in Harlem
- 12 called the Police Athletic Club.
- 13 Q You met them at the Police Athletic Club?
- 14 A Also met them at the Y .
- 15 Q At the Y; where did you meet them, in a
- 16 basketball game?
- 17 A No. Captain MaGuin used to anticipate in
- 18 different social affairs in the community.
- 19 Q I see.
- 20 A I also did so.
- 21 Q You were a member of the community. You met
- 22 him at these community affairs; is that right?
- 23 A Yes. I would be introduced to him.
- 24 Q Did you pay him money then?
- 25 A No.

C99A

Wright-cross

- 6 1
- 2 Q You spoke to me yesterday, didn't you?
- 3 A Yes.
- 4 Q We spoke in Mr. Puccio's office; is that right?
- 5 A Correct.
- 6 Q Mr. Puccio was there, right?
- 7 A Correct.
- 8 Q You say that the next time you saw Mr. Albano
- 9 was in 1966; is that right?
- 10 A 1967, for a transaction or what?
- 11 Q No, no. I'm talking about the time after he
- 12 was in your apartment, when was the next time you saw him?
- 13 A I do not know your name Mr --
- 14 Q Santangelo.
- 15 A Mr. Santangelo.
- 16 Q Santangelo.
- 17 A I hope I pronounced it correctly.
- 18 Q You did.
- 19 A Good. Mr. Albano was alleging in Harlem.
- 20 Q Alleging? Just tell me the next time you
- 21 met him after 1965?
- 22 A Personally?
- 23 Q Personally.
- 24 A Good. In nineteen hundred and sixty-seven.
- 25 Q Wasn't it '66? Didn't you just testify '66,

Wright - cross

and didn't you just tell me yesterday it was '66?

A Could have been.

Q Well, is it could have been or was?

A Mr. Albano was always in Harlem.

Q When did you meet him? Don't tell me when he was always there.

A I met him from hitting joints, kicking down tables, hitting peoples with -- pushing them upside the wall. That's where I met him.

Q All right. Let me recall your testimony of about 20 minutes ago.

A That's where I met him.

Q Where you said about nine or ten months later after he was in your apartment you met him again for the second time?

A Correct.

Q Okay. It's nine or ten months later, right?

A Yes.

Q That's either '66 or '65, right?

A No. He hit -- they raided a place that I was affiliated with. This place was located at 109 West 138th Street and they went inside that office and also inside that office a lady lost a watch, a couple of men lost rings.

Okay. He was always in Harlem hitting places, or

032A

Wright-cross

pushing somebody up against a wall.

Q The time you met him nine or ten months later, at 136th Street and Lenox Avenue, do you remember that?

A Of course.

Q That happened in late '65 or early '66?

A Late '65 or early '66.

Q Okay. Was he alone or with somebody else?

A Most likely he would be alone.

Q Wait. I recall your testimony after Mr. Puccio questioned you and I recall your saying he was with his partner, John?

A They always were -- somewhere -- both of them was always there together.

Q Okay. So he was with John when you saw him the second time, right?

A Yes.

Q Where were you going?

A Where was I going?

Q Yes.

A No place.

Q Going no place. Do you know where you were?

A I knew where I worked?

Q Did you know where you were?

A Of course I did.

033A

Wright-cross

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Q Where were you?

3

A 136th Street.

4

Q Was it 136th or 125th?

5

A Evidently you must be referring to when -- when

6

the took the money off of me; is that what you referring to?

7

A I'm talking about the time you say they took

8

\$3400 from you. Were you on 136th or 125th?

9

A Seem as though we're not communicating. I'd

10

appreciate if you do want to communicate. Let's get

11

together.

12

Q All right. Let me ask a question. I'll put

13

it very simply. When you say Albano took \$3400 from you,

14

where were you?

15

A Oh. I was on Fifth Avenue between 125th Street

16

and 124th Street.

17

Q Okay. Fine. What happened?

18

A They pushed me to the side as I crossed the

19

light, coming down 25th Street.

20

Q You were in your car?

21

A In my car.

22

Q What kind of car were you driving?

23

A Cadillac.

24

Q What kind of car were they driving?

25

A A little black Ford.

Wright-cross

- 1
2 Q They cut you off?
3 A Of course they did.
4 Q You saw two people in their car.
5 Q There was two there.
6 Q Okay. You recognized the fellow who was there
7 at that time?
8 A I recognized Vinnie, yes.
9 Q Did you recognize the other fellow?
10 A Yes, as his partner, yes.
11 Q Was he the same fellow that was in the
12 apartment?
13 A Correct.
14 Q Now, when -- where did you stop your car?
15 A About 20 feet on the other side of 125th
16 Street, on the West side.
17 Q Okay. And when you stopped your car, what did
18 you do?
19 A What could I do? If you got pistols drawn.
20 Q What did you do?
21 A I got out.
22 Q Did they say anything?
23 A Of course. They said something.
24 Q What did they say?
25 A What you got on you.

11

1

Wright-cross

2

A (continued) So look what I found.

3

Q What time of day was it?

4

A It was at night.

5

Q Is 125th Street a crowded street at night?

6

A Yes, 125th Street is a crowded street at night.

7

Q A lot of people there?

8

A A lot of people.

9

Q Okay. Now, Detective Albano and his partner

are outside their car with their guns drawn; is that right?

11

A Yes.

12

Q And you are outside your car; is that right?

13

A Yes.

14

Q You have your hands on your car?

15

A Of course.

16

Q You spread?

17

A No.

18

Q They search you?

19

A They patted me.

20

Q After they patted you, what did they do?

21

A Took the bag that was on the seat of the car.

22

Q Where was the bag?

23

A Right on the seat of the car.

24

Q Tell me, Mr. Wright, where were you going at

25

that time? In your car?

C35A

12

1

Wright-cross

2

A Going to make a payoff.

3

Q Who were you going to pay off?

4

A A Fellow that done hit thenumbers.

5

Q Who was that?

6

A Smoky.

7

Q Smoky?

8

A Yes.

9

Q What did he bet?

10

A He had a five dollar hit on his work. He make

11

a long story short, he had five dollar and fifty cent hit

12

in his work.

13

Q He had a five dollar and fifty cent hit on

14

his work?

15

A In his work.

16

Q After they took the bag out of the car, what

17

happened?

18

A We talked.

19

Q How long did you talk?

20

A Oh, about ten minutes, five minutes.

21

Q Outside in the street?

22

A No.

23

Q Where?

24

A Sitting in my car.

25

Q Where was this car?

13

Wright-cross

- 1
2 A Double-parked, right in front of me.
3 Q What did you talk about?
4 A Talked about money.
5 Q How much money?
6 A \$10,000. Otherwise, I would have charges put
7 on me.
8 Q What charges?
9 A Narcotics.
10 Q Did you ask them to make a phone call?
11 A No. I told them I had to go and get it.
12 Q Well, the phone call had worked the last time,
13 didn't it?
14 A Yes.
15 Q Why didn't you ask him to make a phone call
16 this time?
17 A Because I had still to go get it. He asked me
18 where you have to go get it. I said I have to go to the
19 house.
20 Q Why didn't you ask them to make a phone call
21 to Smitty?
22 A Because I didn't want to involve Smitty.
23 Q So you told them then that you were going to
24 go and get the \$10,000; is that right?
25 A Yes.

633A

Wright-cross

14 1
2 Q And instead of getting the \$10,000, you went
3 where?

4 A To the 32nd Precinct.

5 Q About what time did you get to the 32nd
6 Precinct?

7 A Oh, about 11:00 o'clock.

8 Q And you had been in there before, hadn't you?

9 A Thirty-second?

10 Q Yes.

11 A Of course I have.

12 Q You were there on an arrest, weren't you?

13 A No.

14 Q Never were arrested for policy out of the
15 32nd Precinct?

16 A Yes.

17 Q Didn't go to the Precinct?

18 A Yes. I was arrested and went to the Precinct.

19 Q When you walked into the Precinct, who was
20 sitting at the desk?

21 A I think some Sargeant was sitting at the desk.

22 Q Did you know him?

23 A More than likely, I would have known him.

24 Q You meet him at the P.A.L. or the Y?

25 A No. I meet him in the community.

Wright-cross

1
2 Q In the community?
3 A Yes.
4 Q Did you talk to him?
5 A Of course I talked to everybody.
6 Q Well, when you went up to the sargeant at the
7 desk, what did you say?
8 A I didn't talk to him about what just had
9 happened.
10 Q Oh. Did you talk to him at all?
11 A No. I only asked him was the Captain in.
12 Q I see. You had never before spoken to the
13 Captain in the Precinct; is that right?
14 A Yes.
15 Q You had only met him at the P.A.L. or the
16 YMCA; is that right?
17 A That's correct.
18 Q You never had paid him any money; is that
19 right?
20 A No.
21 Q Did he tell you the Captain was in?
22 A Yes.
23 Q Where was the Captain's office?
24 A As you enter the door, the Captain's office
25 sets over to your left.

16

Wright-cross

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Q Did you go in?

A Yes.

Q The sargeant take you in?

A No. He told the sargeant I was out there.

Q The sargeant told the Captain you were out there?

A Yes.

Q Did he go into the Captain's office first?

A Of course he had to knock on the Captain's door.

Q You walked into the Captain's office, right?

A Yes.

Q Did he know you?

A He seen me in the community.

Q Did he say hello to you?

A Of course he did.

Q What did he say?

A He said, "Hey Cliff, how are you doing?"

Q What did you tell him?

A I told him what happend to me.

Q No. Tell me what you told him. Did you tell him, "I'm doing bad tonight, Captain"?

A No. I told him what happened to me, and how I resent it.

104
17 1 Wright-cross

2 Q You resented it?

3 A Yes.

4 Q I see. You didn't like Vinnie at that time,
5 did you?

6 A You wouldn't either.

7 Q You didn't like him after he was in your
8 apartment, did you?

9 A You wouldn't either.

10 Q In fact, didn't you tell me yesterday that
11 Vinnie said at one point, "I'm going to get you, Cliff?"

12 A Correct.

13 Q When did he say that, in the apartment?

14 A Yes. When he was going out of the apartment,
15 when Smitty left, say, I get you.

16 Q And you were mad at him, right, in the
17 apartment?

18 A Of course. You'd be mad too if he tore up all
19 your things.

20 Q And was he mad at you?

21 A And rip off things.

22 Q You were saying he was mad at you too?

23 A Didn't need nothing for Vinnie to be mad.
24 They was doing what they do in --

25 Q He was just doing his job?

Wright-cross

A What kind of job that?

Q You say he didn't need anything to get mad;
he was just doing -- what was he doing?

A Just tearing up.

Q Looking for what?

A Some kind of sadistic instinct.

Q Looking for narcotics?

A That's what he allege.

Q You were dealing in narcotics, weren't you?

A No.

Q Weren't you dealing with John?

A No. John made a sale to me.

(continued on next page)

HS/tk

1

Wright - cross

61

3aml

2

Q Oh.

3

A In return I turned it over to Smithy there.

4

Q You gave him the narcotics?

5

A No, the other agent was sitting there.

6

Q I see. And that is the way that went down.

7

You didn't call Zach Robinson for this sale,

8

did you?

9

A No.

10

Q When did you meet Zach Robinson?

11

A In the late '50's.

12

Q When did you start dealing in narcotics with

13

Zach Robinson?

14

A Zach and I were friends.

15

Q When did you start dealing in narcotics with him?

16

A I borrowed money from Zach occasionally.

17

Q When did you start dealing in narcotics with him?

18

A When Vinnie started bringing in the narcotics.

19

Q That was the first time you have ever dealt

20

with Zach Robinson in narcotics; is that right?

21

A Right.

22

Q Did you know prior to that time that

23

Zach Robinson was dealing in narcotics?

24

A Not definitely. I heard he was.

25

Q Did you tell Smithy?

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A Of course I did.

Q Did you try and sell narcotics to
Zach Robinson for Smithy?

A No.

Q Did you try and buy narcotics from
Zach Robinson for Smithy?

A No.

Q Did you do anything --

A No.

Q Let's go back to Captain McCann's office.
Did you tell him you were an informer?

A No.

Q Did you tell him you were dealing in narcotics?

A No.

Q Did you tell him you were into the policy
business?

A No.

Q Did you tell him what the \$3,400 was for?

A Yes.

Q What did you tell him?

A The real estate deal that I just had negotiated.

Q I see.

You told Captain McMann about the 3400 that
was stolen for you, was real estate deal?

- 2 A Correct.
- 3 Q Do you have a real estate license?
- 4 A No.
- 5 Q Did you have an office?
- 6 A Yes.
- 7 Q Where?
- 8 A On 7th Avenue.
- 9 Q What kind of an office?
- 10 A Management and real property.
- 11 Q You managed real estate?
- 12 A Correct.
- 13 Q You told that story to Captain McCann?
- 14 A It was no story.
- 15 Q You told him the story about the real estate deal?
- 16 A Correct.
- 17 Q And you said you had just been set upon by two
- 18 New York City police officers and robbed; is that correct?
- 19 A Right.
- 20 Q How did Captain McCann react to that?
- 21 A Positive.
- 22 Q Well, how? Was he mad?
- 23 A Mad?
- 24 Q Yes, surprised?
- 25 A Captain McCann was a very calm man. He never got

4 1

2 mad, at least in my life I never seen or heard of him getting
3 angry.

4 Q What did he do after that?

5 A He called in Lieutenant Abbott.

6 Q Was Lieutenant Abbott in the same room with you
7 and Captain McCann?

8 A I stepped outside and they spoke and he said,
9 "Cliff, I'll take care of it for you."

10 Q You spoke to Lieutenant Abbott, did you not?

11 A Yes.

12 Q Did he speak to any other lieutenant?

13 A Lieutenant Greenfield upstairs.

14 Q Did you go from Captain McCann's office upstairs
15 to Lieutenant Greenfield's office?

16 A No, no.

17 Q What happened?

18 A Somebody called him and he come down.

19 Q He came down?

20 A He came downstairs.

21 Q By the way, were they in uniform or out of
22 uniform?

23 A Lieutenant Abbott was in uniform. Captain
24 McCann was in plainclothes.

25 Q What about Lieutenant Abbott?

2

A Lieutenant Abbott was in uniform.

3

Q Okay.

4

One gold bar on his shoulder?

5

A Of course, yes.

6

Q Little braid on his hat?

7

A He didn't have on no hat.

8

Q No braid on his hat?

9

A He didn't have on no hat.

10

Q Did they go with you to the parking lot?

11

A They got there before I did.

12

Q Lieutenant Greenfield --

13

A Not lieutenant Greenfield, Lieutenant Abbott

14

and some officers.

15

Q You didn't go with them to Lenox Terrace, you

16

went alone?

17

A Yes.

18

Q When you got there, what did you see?

19

A Lieutenant Abbott had them on the side.

20

Q How many other police officers besides Mr. Albano

21

and his partner were there?

22

A You mean how many policemen Lieutenant Abbott

23

took with him? Is that what you are referring to?

24

Q Yes.

25

A I would say three or four.

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Q Did they have their guns drawn?

A I don't know.

Q Did you look?

A Of course I looked.

Q Did you see guns?

A I wasn't looking for no guns.

Q What were you looking for?

A All that I was looking for is that they had them.

Q Where was Mr. Albano standing when you saw him?

A They pulled him out of the car and he was
talking out of the side of his mouth.

Q You say you saw him pulled out of the car?

A They got him out of the car.

Q Did you see him being pulled out of the car?

A I'm going to say yes, but I don't have to be
correct on this.

Q You don't remember?

A That's right.

Q When you first got there, Albano was already
out of the car?

A No, getting out of the car.

Q While he was getting out of the car, was he
being aided or helped in any way to get out of the car?

A No, not to my knowledge. He was getting out

the car, both of them.

Q Who was on the driver's side?

A Vinnie, I think, was on the driver's side.

Q Did Lieutenant Abbott and his men have the car surrounded?

A Yes.

Q Did they have their guns drawn?

A Not to my knowledge, no. I would say, no.

Q By the way, when you spoke to Captain McCann and Lieutenant Abbott, did you tell them that it was Police Officer Albano who robbed you?

A I didn't know him by Albano. I only knew him as Vinnie.

Q Did you tell them that it was a police officer named Vinnie who had robbed you?

A Correct.

Q Now, getting back to the time when you were arrested in February of 1969. Did you tell Captain McGowan or anybody about this incident with Vinnie where you were robbed of \$3,400?

A I never told Captain McGowan anything, but I did -- I did tell Inspector Taylor.

Q I see.

You never had an interview with Captain McGowan?

1

2

A Never.

3

4

Q Well, did you know a Captain McGowan who was working with Inspector Taylor at the time?

5

A No, I did not.

6

Q Let me ask you this:

7

8

You were arrested on February 4, 1969, weren't you?

9

A I was not arrested.

10

Q What happened?

11

A They took me in front of my place.

12

Q Who took you?

13

A Taylor.

14

Q Alone?

15

A No.

16

Q Who was with him?

17

A Mr. Worm and Mr. Bitzer.

18

Q Federal narcotic agents?

19

A Yes, I guess that's what you would call them.

20

Q All right.

21

22

A They said, "Cliff, don't do nothing. Don't cause any kind of confusion. We just want to speak with you."

23

24

I said, "Well, that's unnecessary. Nobody touch me or nothing."

25

Then they said, "Permit us, because we don't want to

do nothing out here where it would create a lot of confusion."

Q Where did they take you?

A Across 149th Street, right there as you go down towards where you make the turn to catch the Triboro Bridge, we consulted there in the coal company and they says, "Okay, we'll let you go back. Can you come on downtown, because we want to speak with you"?

Q Did you after that arrest agree to cooperate with respect to the investigation of Federal Narcotic Bureau members, Police Department Narcotic Bureau members?

A Yes.

Q You agreed to cooperate; is that correct?

A Yes.

Q And weren't you arrested in February of 1969 in connection with a narcotics transaction?

A That's the one you are just speaking of?

Q Right.

They were going to charge you with a narcotics transaction.

A They did charge me with one.

Q In order to get back on the street, in February of 1969 you agreed to cooperate in connection with their investigation of members of the City Narcotic Bureau and the Federal Narcotic Bureau?

Wright - cross

70

A No, because I could have got out on bail.

Q Well, you think Captain McGowan is lying --

A I don't know.

Q -- when he says --

A -- I am not thinking anything.

MR. PUCCIO: I gave Mr. Santangelo a statement which relates to the information by these narcotics dealers, which is signed by a Captain McGown. I told Mr. Santangelo we are not even able to establish it as 3500 material. McGowan was working with the Federal inspectors. He was assigned to that by the Police Department. We do have a statement with his name on it indicating that Mr. Wright made a statement about buying narcotics from Vincent Albano. We can't pin it down as a contemporaneous statement.

MR. SANTANGELO: I would like to offer it into evidence.

THE COURT: I will take it.

Defense or Government exhibit?

MR. SANTANGELO: It doesn't matter to me, defense.

THE COURT: Defendant's exhibit A in evidence.

Q Now, after you got to the parking lot at 132nd Street and Lenox Terrace, everybody proceeded back to the precinct; is that right?

113A

- 1
2 A Right.
3 Q And when you got to the precinct, did you speak
4 to Albano?
5 A No.
6 Q Did you speak to Captain McCann?
7 A Yes.
8 Q Did you speak to Lieutenant Abbott?
9 A Yes.
10 Q Did you speak to Lieutenant Greenfield, by the
11 way?
12 A No.
13 Q Did anybody give you your money back?
14 A Yes.
15 Q Who did?
16 A Lieutenant Abbott.
17 Q What did he say?
18 A He said, "Here it is."
19 Q Do you know whether or not the sergeant who was
20 at the desk was there when you all came back from the parking
21 lot?
22 A I did not observe. I didn't pay no attention.
23 Q Did you all come in together?
24 A No.
25 Q Did you get there first or after them?

1
2 A I got there right behind them.

3 Q Did you see them go in to the precinct?

4 A When I was parking, they was going in.

5 Q Who went in through the door?

6 A They went in from the garage, okay? I was
7 parking as they were going in.

8 Q How did you go in?

9 A The front door.

10 Q When you came in the front door, did you see
11 anybody like Lieutenant Abbott or Lieutenant Greenfield?

12 A I seen Lieutenant Abbott.

13 Q Where was he?

14 A He say, "Come here, Cliff."

15 Q He was standing there in the lobby of the 32nd?

16 A No.

17 Q Was he standing by the sergeant's desk?

18 A Correct.

19 Q When you went over by the sergeant's desk, did
20 you see the sergeant?

21 A Yes.

22 Q Now, did Lieutenant Abbott give you the money
23 there?

24 A No.

25 Q Where did he give you the money?

2 A Behind the sergeant's desk, there was a little
3 room.

4 Q And you went into that room?

5 A Yes.

6 Q And did Lieutenant Abbott have it in an envelope
7 or in his pocket?

8 A No.

9 Q Where did he have it?

10 A In his hands. He said, "Count it, check to see
11 if you got it all."

12 Q When you saw Lieutenant Abbott in front of the
13 sergeant's desk, he had \$3,400 in his hand?

14 A No.

15 Q Where did he have it?

16 A I went into the room where he has it in that room
17 there.

18 Q Was it sitting on a table --

19 A No.

20 Q Where was it?

21 A In a paper bag in the room.

22 Q He didn't have the paper bag when you were in
23 front of the sergeant's desk?

24 A No.

25 Q The paper bag was in the room?

2

A Yes.

3

Q All alone?

4

A No.

5

Q Who was in there with the paper bag when you

6

were in front of the sergeant's desk with Lieutenant Abbott?

7

A Another officer.

8

Q Do you know his name?

9

A I don't know.

10

Q Was he a lieutenant, a captain, a sergeant, in

11

plainclothes?

12

A No.

13

Q In uniform?

14

A Yes.

15

Q And this officer was there when Lieutenant

16

Abbott handed you back the 3,400?

17

A No.

18

Q Let's go one step at a time:

19

You walked into the little room and there was an

20

officer with a brown paper bag?

21

A No, the officer was sitting over in a chair.

22

Q Was there a brown paper bag on the table?

23

A Correct.

24

Q When you and Lieutenant Abbott got into the

25

room, what did the police officer do?

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A He went out.

Q After he went out, Lieutenant Abbott gave you the grown paper bag; is that right?

A Right, and I checked it.

Q You counted it there?

A Yes.

Q Was it all there?

A Yes, and stuck it inside my coat pocket.

Q Did you deliver it to Smokey?

A Yes.

Q SMOkey still around?

A I don't know.

Q Have you seen him in the last few months?

A No.

Q When was the last time you saw him?

A I don't come into New York --

Q When was the last time you saw Smokey?

A 1970.

Q You gave Smokey the 3,400. What did he do?

A I don't know. I guess he paid off who he was supposed to pay off.

(continued next page)

1 Wright-cross

2 Q Did you give him the whole brown paper bag?

3 A A No.

4 Q What did you give him?

5 A I gave him 3300 out of the paper bag and
6 another 100 over here (indicating).

7 Q Did he take it all?

8 A He was supposed to get it all.

9 Q Did he give you anything?

10 A What was he supposed to give me something for?

11 Q I don't know.

12 Don't people who hit the number usually give
13 the collector a tip?

14 A I don't know.

15 Q How long have you been in the policy business?

16 A All my life.

17 Q Never got a tip from a guy who hit a number?

18 A No, never got a tip. You get 10 percent.

19 Q Are you sure you're in the policy business?

20 A I'm positive.

21 Q And you never got a tip from a man who hit a
22 number?

23 A No.

24 THE COURT: You didn't listen to him.

25 THE WITNESS: I beg your pardon, your Honor?

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THE COURT: Do you get anything when somebody hit the number?

THE WITNESS: Yes, you take 10 percent.

THE COURT: You do not consider that a tip, you are entitled to that?

THE WITNESS: That's what you're entitled to as a runner -- as a runner.

THE COURT: Okay.

THE WITNESS: Most people in certain positions don't accept certain things.

THE COURT: As a runner, do you take the 10 percent?

THE WITNESS: Yes, the runner, that would be Smokey.

THE COURT: You were a collector?

THE WITNESS: Yes.

THE COURT: You get your 10 percent?

THE WITNESS: No.

THE COURT: The collector doesn't get 10 percent?

THE WITNESS: No.

THE COURT: Does the runner?

THE WITNESS: The collector works on a percentage basis on a whole on what he takes in.

1
2 THE COURT: I see.

3 When they pay out, he doesn't get a portion
4 of that?

5 THE WITNESS: No.

6 THE COURT: Thank you.

7 THE WITNESS: He takes all the money right
8 to whoever is supposed to get it.

9 Q Now, after you got your money back in the
10 precinct, did you see Vinnie again that night?

11 A No.

12 Q Well, did you see him while he was
13 talking to Lieutenant Abbott or Lieutenant Greenfield?

14 A No, I seen him in the back room. I understand
15 he went upstairs.

16 Q Did he look mad to you?

17 A Look mad to me?

18 Q Yes.

19 A I didn't care how he looked. It carried
20 no significance to me how he looked. I'm the one getting
21 ripped off.

22 Q Let's get to December of 1967 -- from '66
23 to '67 -- did you continue in the policy business?

24 A Yes.

25 Q Were you arrested at all for policy --

1
2 withdrawn.

3 You were arrested for policy by a detective
4 Messina, weren't you?

5 A Yes.

6 Q Did you ever pay him off?

7 A You can't operate in Harlem unless you paid
8 off, Mr. San --

9 Q Santangelo.

10 Did you pay off Messina?

11 A I repeat myself, you couldn't operate in
12 Harlem unless you paid off.

13 MR. SANTANGELO: I ask that the answer be
14 stricken and the question be repeated to the
15 witness?

16 THE COURT: Rephrase the question.

17 Q Did you ever pay off Detective Messina --

18 THE COURT: Ask him if he ever gave
19 Detective Messina cash himself or something like that.

20 Q Did you ever give Detective Messina cash?

21 A No.

22 Q Did you ever give any detective in the
23 32nd Precinct cash?

24 A No.

25 Q Now, let's get to December of 1967.

1 You saw Vinnie on Lenox Avenue around
2 136th Street, is that right?
3 A Yes.
4 Q This is the the first time you say you are
5 going to deal with him with respect to narcotics; is that
6 right?
7 A (Nods head.)
8 Q What time was it?
9 A About twelve o'clock.
10 Q Midnight?
11 A No, day.
12 Q Did he drive up in a car?
13 A Who?
14 Q Vinnie?
15 A No, he was walking.
16 Q Do you know whether he had a car that day?
17 A Yes, I assume he did.
18 Q Did you see it?
19 A I didn't.
20 Q You didn't?
21 A I didn't see the car.
22 Q Now, where was he walking?
23 A As I came around the corner.
24 Q Corner of what?
25 A Lenox Avenue.

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Q And 136th Street?

A Right.

4

Q And you were walking in which direction?

5

A Walking west.

6

Q On 136th Street?

7

A Yes.

8

Q And now --

9

A Vinnie came from over by the library.

10

Q Where is that?

11

A Across the street.

12

Q That's north of where you were?

13

A South.

14

Q And did he walk across the street to you?

15

A Yes.

16

Q What did he say to you?

17

A "How you doing"?

18

Q What did you say to him?

19

A "Okay, I get by."

20

Q What else did he say?

21

A One word led to another and then he started

22

asking me about relating to Duggie.

23

Q I'd like to know what the words were.

24

A Don't remember verbatim.

25

Q What were you talking about before you got to

Duggie?

A How was he doing.

Q You said that once. What else did he say?

A I don't remember verbatim.

Q He said, "How you doing," and you said "Okay,"
and then he said, "Can you handle some Duggie?"

A He asked me if I could get rid of some.

Q Nothing in between?

A More or less like I said, how you doing. He
knew I was working.

Q Here's a man who said he was going to get
you --

A He wasn't going to get me then. To get me
then he would have to get a --

Q In 1965 he said he was going to get you and
you called Federal agents on him, did you?

A Mr. linz --

Q You called the captain of the precinct and
two lieutenants and three policemen, right?

A Yes.

Q And in broad daylight he comes up to you
and asks you to get rid of Duggie?

A Right.

Q What did you say?

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A I listened.

Q Did you say, "I'm not in the narcotics business?"

A No, I listened.

Q Were you in the narcotics business?

A No.

Q Why did you listen?

A Out of respect.

Q How long did you listen?

A Oh, about two to three minutes.

Q Did he threaten you?

A No.

Q Did he say, "Cliff, you'd better get rid of this Duggie or else I'm going to do something to you?"

A No.

Q When did you agree to try to get rid of this Duggie?

A After our discussion on the quality of it.

Q Now, you only wanted to handle good stuff, right?

A I didn't want to handle no stuff.

Q What were you talking about the quality for?

A Because the person I was going to negotiate with, he wouldn't touch nothing unless it was good quality.

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Q That was Zach Robinson, right?

3

A Yes.

4

Q Had you dealt with Zach before?

5

A No, not in that capacity.

6

Q But you wanted to bring Zach good stuff, right?

7

A You can't sell stuff unless it is good stuff.

8

Q And he sold the last batch, didn't he?

9

A I don't know what he did with it. He might

10

have took it to satisfy his wife.

11

Q You gave it to Zach the last time, didn't you?

12

A I don't know what he did with it.

13

Q You talked about getting rid of duggie on

14

the street, right on the street at 136th Street and Lenox

15

Avenue -- you were talking to Vinnie about getting rid of

16

narcotics, right?

17

A Right.

18

Q And --

19

A Then we went into the club.

20

Q What did Vinnie say about the quality?

21

A He said it was good quality. He said it was

22

very good.

23

Q Did he give you a percentage?

24

A A percentage, no.

25

Q Well, did you know what virgin narcotics was?

1
2 A Yes, I think I do.
3 Q Have you ever bought it?
4 A No.
5 Q Have you ever tested it?
6 A Tested virgin?
7 Q Yes.
8 A Or tested duggie?
9 Q Have you ever tested any virgin narcotics?
10 A No.
11 Q Had you ever tested any duggie before that?
12 A Of course I did.
13 Q When?
14 A 1958.
15 Q In 1958?
16 A Yes.
17 Q When?
18 A In a room.
19 Q Now, you went to a restaurant, right?
20 A Yes.
21 Q The name of the restaurant was 22 West?
22 A Yes.
23 Q And did you make a phone call in that
24 restaurant?
25 A Yes.

1

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Q Whom did you call?

3

A I called Zach.

4

Q Where did you call him?

5

A Grocery store.

6

Q Had you ever called him at the grocery store

7

before?

8

A Yes.

9

Q Why?

10

A What do you mean why?

11

Q Why did you call him? Were you a good

12

friend of his?

13

A Yes, good associates.

14

Q Associates in what?

15

A Very close.

16

Q How close?

17

A Real close.

18

Q Did he know you were an informant?

19

A No.

20

Q You weren't that close?

21

A Wasn't that close.

22

Q Right now, you testified that you told

23

Zach that a guy named Vinnie or Vinnie had some duggie;

24

is that right?

25

A Yes.

2 Zach was fully aware of Vinnie.

3 THE COURT: May I inquire how long is this
4 cross going to continue? We may have to break.
5 I have two other cases, two juries are waiting.

6 MR. SANTANGELO: I would say at least an hour.

7 THE COURT: We will have to bring the witness
8 back. Any objection to breaking at this time and
9 continuing tomorrow evening?

10 MR. SANTANGELO: It is all right with me,
11 Judge.

12 THE COURT: Five o'clock.

13 MR. PUCCIO: If that is the only way to do it.
14 Could we possibly continue later today?

15 THE COURT: I am free after 10:00 o'clock this
16 evening.

17 MR. PUCCIO: The only reason I requested it
18 was because Mr. Wright comes from a great distance.

19 THE COURT: We have already scheduled one
20 case until 5:00 and then we have another from 6:00
21 to about 9:00. We are free after 9:00 o'clock. The
22 reporters may get tired.

23 MR. PUCCIO: I guess we can make it tomorrow,
24 Judge.

25 MR. SANTANGELO: I have one request. I would

ask Mr. Puccio whether he could locate Captain McCann,
Lieutenant Greenfield and Lieutenant Abbott?

MR. PUCCIO: We will do the best we can.

MR. SANTANGELO: I want them as witnesses.

THE COURT: The Government will do the best they
can.

How about 6:00 o'clock tomorrow evening?

MR. PUCCIO: That is all right.

THE COURT: Is that convenient for you?

THE WITNESS: I do not live here. I am not
permitted from --

MR. PUCCIO: He is still on parole or
probation. I can arrange it with his probation
officer.

MR. SANTANGELO: Six tomorrow evening?

THE COURT: Yes.

* * *

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Clifton Wright	3	34		

E X H I B I T S

<u>DEFENDANT'S</u>	<u>DESCRIPTION</u>	<u>IDEN.</u>	<u>EVID.</u>
A	Document	70	

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
 :
 -against- : 76-CR-481
 :
 VINCENT ALBANO, :
 :
 Defendant. :
-----X

United States Courthouse
Brooklyn, New York
February 23, 1977

Before :
HONORABLE JACK B. WEINSTEIN, U.S.D.J.

EMANUEL KARR
OFFICIAL COURT REPORTER

PENGAD CO., BAYONNE, N.J. 07001 FORM 140

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Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: THOMAS P. PUCCIO, ESQ.
Chief, Strike Force

GEORGE L. SANTANGELO, ESQ.
Attorney for Defendant

1 (Time noted 6:00 P.M.)

2 THE COURT: All right, gentlemen, let us
3 continue.

4 MR. SANTANGELO: Your Honor, could I have
5 five minutes for two witnesses who just arrived, I
6 just found out thirty seconds ago.

7 THE COURT: No, let us finish with this witness,
8 shall we, so we can get going?

9 MR. SANTANGELO: All right, all right.

10 C L I F T O N W R I G H T, having been previously sworn,
11 continued to testify as follows:

12 CONTINUED CROSS-EXAMINATION

13 BY MR. SANTANGELO:

14 Q Mr. Wright, I think we left off yesterday with
15 your testimony with regard to the first time that you say
16 Mr. Albano sold you drugs sometime in 1967 I believe; is
17 that right?

18 A I think you are right.

19 Q Excuse me?

20 A I think so.

21 Q Ok.

22 And you met him on the street and engaged in
23 conversation and you went to the 22 Restaurant; is that
24 right?

25 A Yes.

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Q Ok.

Now, did you make any phone calls from the
22 Restaurant?

A Yes, sir.

Q Whom did you call?

A Zach.

Q And after you called Zach, did you do anything?

A Yes.

Q What did you do?

A Vinnie and I came outside.

Q And was that outside?

A Yes, he was out there, but Vinnie didn't see
him.

Q Where was Zach?

A You mean where was Zach at?

Q Yes.

Did you see him?

A Yes, I seen him.

Q Where was he?

A He was over there by -- this was about a
hospital at this time, you see, there was a little --
there is --

Q You just came out of the 22 Restaurant: right?

A Right.

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Q And that is on what?

A You see --

Q What street is that on?

A 35th Street -- I mean 135th Street.

Q 135th?

A There is a park over there, across, a little walk way, a little walk through, ok?

Q Yes.

How long did you stay out there?

A About I would say a minute.

Q Ok.

And did you go any place after that?

A Yes.

Q Where did you go?

A Around to the club.

Q Which club is that?

A On 136th Street.

Q What is the name of it, is there a name for it?

A We call it the Hole.

Q The Hole?

A Yes.

Q Did Vinnie go with you to the club?

A He came in a little later.

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Q About what time did he come in; do you recall?

A About, I would estimate that it was approximately between 3, 4.

Q So that how long did -- well, after leaving Vinnie on the street, you went to the Hole: Right?

A Right.

Q How long did you stay there?

A I stayed there until after Vinnie came and left.

Q And until after who came?

A Vinnie.

Q Ok.

Did you see anybody else---approximately how long was that?

A Oh, I would say approximately a half hour.

Q And do you recall approximately what time?

A It was in the evening, waiting on the last number, we was waiting.

Q Did you see anybody else?

A I didn't.

Q Did you talk to anybody in the club while you were waiting for Vinnie?

A Did I talk to anybody in the club?

Q Yes.

Q While I waited for Vinnie?

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Q Yes.

A If that is the question.

Q Yes.

A Yes, I always talk to everybody.

Q Who were the people you saw there while you waited for Vinnie?

A As I always walked in someone wanted to speak to me or ask me something.

Q Do you remember any one specifically whom you spoke to?

A We call everybody by an alias, yes, I remember quite a few people.

Q Can you give us the names?

A W.S., there was W.S. --

Q Can you name a few?

A There was W.S.

Therewas Smokie.

Blackout..

There was Eddie.

There was a lot of peoples in the place, always filled up, a lot of people.

Q And at approximately what time did Vinnie get there?

A I would say approximately between 3 and 4.

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Q And how big is this club?

A At that time we had two tables going.

Q I mean insize, do you know how big was the room?

A I would say at that time it was about 40 x 18.

Q Approximately how many people were there when Vinnie came in?

A Let's say about 20, 25.

Q Now, what did Vinnie do when he came in to the club?

A I can't -- I brought him on back to the little place I had in there which we call the office.

Q And did you pay the rent in that club?

A No,

Q Was there anybody in the office when you went back there?

A No.

Q What happened when you went back in the office?

A I asked him for the thing.

Q Did he give you something?

A Of course he did.

Q What did he give you?

A He gave me this duggie in a brown paper bag.

Q What did you do with it?

A Stuck a pin in it.

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Q What happened when you stuck a pin in it?

A I had a little bottle of acid which I used a drop to take it out of.

Q Where did you find the acid?

A On 116th Street and Manhattan Avenue.

Q Was it in the back room?

A No.

Q I mean did you have it in the back room?

A Yes, I had it there.

Q How long had it been in the back room?

A Oh, I don't know.

Q Did you buy it?

A No, I didn't buy it.

Q What kind of acid was it?

A Hydrochloride.

Q Hydrochloride acid?

A Yes, the same that we use in a battery.

Q In a what?

A In batteries.

Q You said you didn't buy it, though?

A No.

Q How did you get it?

A I sent down to the drug store to get it.

Q You sent them down to get hydrochloride acid?

1 A Yes, sir.

2 Q Did the bottle have a name on it?

3 A Yes.

4 Q What did it have on it, hydrochloride acid?

5 A Yes.

6 Q How long did you have that bottle?

7 A Oh, the bottle was about this size (Indicating).

8 Q It had a label on it?

9 A Yes.

10 Q Was it typewritten, the label?

11 A Like it was printed.

12 Q And could you read at that time?

13 A I think I could, maybe not as well as I do now.

14 Q But you read the label and it did say hydrochloric

15 acid: right?

16 A Yes.

17 Q And had you used hydrochloric acid before?

18 A Yes.

19 Q How many times had you used hydrochloric acid

20 before?

21 A On how many times, many, many times.

22 Q How many?

23 A Oh, I would say half a dozen.

24 Q And the last time you used it before this time

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was in 1958: right?

A I wouldn't say that.

Q When would you say that you used it last before
1967?

A I used it around 62.

Q 62?

A 62.

Q Now, what did you do with this hydrochloric acid?

A We normally use that in order to tell the
grade of narcotics.

Q Well, you were experienced in testing narcotics:
right?

A No, I wouldn't say that.

Q Well, you had used hydrochloric acid before to
test narcotics?

A That is not an accurate test.

Q Well, you had used hydrochloric acid before?

A Yes, but you don't get nothing specific with
that.

Q Are you a chemist?

A No.

Q Now what happened -- withdrawn.

Did you do anything with the hydrochloric acid?

A Yes.

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Q What did you do with it?

A I put it on the duggie.

Q What happened to the substance?

A The duggie turned dark green.

Q Did it turn dark green right away?

A No, it takes about 15 minutes to reach its capacity.

Q And was this what happened before when you used hydrochloric acid?

A Yes.

Q On heroin?

A Yes.

Q It turns dark green?

A Yes.

Q And so every time --

A If it is good quality.

Q Excuse me?

A If it is good quality.

Q I see, so if you use--withdrawn.

So every time you use hydrochloric acid on heroin or what you thought to be heroin, it turned a dark green: right?

A No.

Q Or some shade of green?

1
2 A Some shade of green, that is right, and the
3 greener, it was the better it was.

4 Q When you made this test with the hydrochloric
5 acid, did you say anything?

6 A It wasn't necessary, no.

7 Q Did you say that it is good stuff or --

8 A No.

9 Q Or, I'm glad you brought good stuff?

10 A No, no, nothing.

11 Q All right.

12 After you made the test, what did you do with
13 the bottle of hydrochloric acid?

14 A I put it in the file cabinet.

15 (continued next page.)
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Q And what did you do with the package?

A I sent it out.

Q Whom did you send it to --- withdrawn.

With whom did you send it out?

A By an associate of mine.

Q Who was that?

A I don't recall his name.

Q And then what did you do?

A Then Vinnie already got his money. he was getting ready to go.

Q Where did you get the money from?

A I had got this from a friend of mine.

Q Did you have it in the back room?

A In the pockets.

Q Where was it in the back room?

A In the pockets.

Q Whom did you get it from?

A Got it from Zach.

Q And how much did you pay --- withdrawn.

How much did you get from Zach?

A \$10,000.

Q And how much did you pay Vinnie?

A \$10,000.

Q Now, the second time you say you bought drugs

from Vinnie was some time in 1968: right?

A Right.

Q Approximately when?

A About approximately February.

Q Is there anything in your mind that fixes it as February 1968?

A Yes.

Q What?

A Well, in the latter part of January and February is what makes me recall it, he came around quite often and friends of mine had seen him in another place.

Q Did you pay Vinnie for the second batch of heroin?

A I certainly did.

Q Did you test the second batch of heroin?

A Didn't have to, no, not at that point.

Q Well, you said that you got the heroin from Vinnie outside of the apartment house: right?

A No.

Q Well, where did you get the heroin from Vinnie?

A From an apartment, a lady handed it to me.

Q Where did you pay Vinnie?

A Across the street on Broadway.

Q In his car or your car?

A On the street.

Q On the street. Now, where did you take the

heroin?

A I didn't take it.

Q Well, you had it in your hand after it was

given to you, didn't you?

A Yes.

Q Where did you take it from that place, that

apartment?

A Downstairs one flight.

Q Okay.

And after you paid Vinnie, where did you go with

the heroin?

A I didn't have it.

Q Did you give it to somebody?

A Yes.

Q Whom did you give it to?

A A friend of mine.

Q Who is that?

A He is just an associate, I don't --

Q What is his name?

A I don't, I can't remember the name.

Q Was he black or white?

149

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Wright-cross/Santangelo

106

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A You know he wasn't white, I mean, I mean, no,

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he was black.

4

Q He was black?

5

A He was black.

6

Q How long have you known him?

7

A You mean how long had I seen him around?

8

Q How long had you known this man whom you

9

handed the one kilogram of heroin to?

10

A He had been around five or six years.

11

We call him boy.

12

Q You call him boy?

13

A Yes.

14

Q Did you call anybody else boy?

15

A Yes.

16

Q When you said boy, how many people turned

17

around in that club?

18

A That depends on who you was addressing.

19

Q How old is this boy?

20

A Oh, I would say he is in -- is you talking

21

about now?

22

Q No, at the time.

23

A Oh, he was in his forties I guess.

24

Q At the time you gave him the heroin?

25

A I never ask people their ages.

119A

1
2 Q How did he get to the apartment?
3 A I told him where to come.
4 Q When did you tell him where to come?
5 A I told him from the club I wanted him to do
6 me a favor.
7 Q Did you tell him where to bring the heroin?
8 A Yes.
9 Q When did you tell him that?
10 A At the same time when I told him I wanted him
11 to do me a favor.
12 Q Did you ever test the second batch?
13 A Yes, we tested it.
14 Q You say "we tested it"?
15 A Yes.
16 Q Did you test it in the same way?
17 A Yes.
18 Q Did you go in the back room?
19 A No, I went to another place.
20 Q Did you use hydrochloric acid?
21 A Yes.
22 Q How did you know it was hydrochloric acid?
23 A That is what they say, it was natural that it
24 was.
25 Q Did it have a label on it saying hydrochloric

acid: right?

A Yes.

Q And you used that to test the second batch?

A That is right.

Q What color did it turn?

A Green.

Q How much money did Zach Robinson give you for the second batch of heroin?

A \$20,000.

Q And what did you give Vinnie?

A \$20,000.

Q Let's go to the third transaction.

Where did that occur?

A It occurred at another club, not the same one we had been speaking of.

Q How many people were in the club when that happened?

A Nobody but one.

Q Who was it?

A Zach.

Q Did you test the third batch?

A We tested it while he was there.

Q With hydrochloric acid?

A Yes.

151a

151a

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Q From the same bottle, from the same bottle?

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A No, not from the same bottle.

4

Q Where did you get the hydrochloric acid?

5

A The hydrochloric acid came in a large bottle

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like this (indicating), we took the acid and put it in an

7

eye dropper, one of those --

8

Q Where did you buy that hydrochloric acid?

9

A On the corner of 116th Street and Manhattan

10

Avenue.

11

Q That was a drug store?

12

A That was a drug store.

13

Q You asked for the hydrochloric acid?

14

A I asked, I went inside and I asked the

15

gentleman to do me a favor.

16

Q Who was it who did you that favor?

17

A The druggist.

18

Q What is his name?

19

A We used to call him Fats.

20

Q And he gave you a bottle of hydrochloric acid?

21

A Right.

22

We very seldom ask people their names or anything.

23

Q Do you remember February of 1969 when you

24

were questioned by Mr. Taylor?

25

A Yes.

Q Did you tell him that you had given Vinnie one-half kilo of heroin -- withdrawn, I'm sorry.

Did you tell him that Vinnie had given you one-half kilo of heroin on three occasions?

A I don't remember exactly what I told Mr. Taylor at that time.

Q Didn't you tell him that Vinnie paid you \$7500 on each of three occasions?

A I don't remember telling Mr. Taylor. No \$7500.

Q Do you remember telling Mr. Taylor or Captain McGowan or anybody that you paid Vinnie \$10,000 on the first occasion?

A If I told Mr. Taylor I must have told him \$10,000, I couldn't have told him \$7500, and it had to be Mr. Taylor or Mr. Wurm.

MR. SANTANGELO: Does the Government have any reports of those interviews?

MR. PUCCIO: No, we don't, all we have is that what you have.

MR. SANTANGELO: From Captain McGowan?

MR. PUCCIO: Right.

It is our understanding that that information was passed to the Captain.

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MR. SANTANGELO: From Taylor and Wurms?

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MR. PUCCIO: From Taylor and Wurms, yes.

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MR. SANTANGELO: So the record is clear, the information that was passed to Captain McGowan from Taylor and Wurms is that the witness stated that on three occasions --

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MR. PUCCIO: To Captain McGowan by Mr. Taylor.

9

MR. SANTANGELO: I am saying that.

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The witness stated he purchased one-half of a kilo of heroin from Detective Albano on three separate occasions, each time paying him \$7,500 for the narcotics.

14

BY MR. SANTANGELO:

15

16

Q Now, you were arrested in February of '69 for a narcotics transaction, weren't you?

17

18

A I was arrested, at the time I didn't know what the arrest consisted of.

19

20

Q It turned out to be for a narcotics transaction; right?

21

A Yes.

22

23

24

Q Subsequently, after being questioned by Agent Taylor and Agent Wurm, you agreed to cooperate with them, didn't you?

25

A Yes.

154A

1
2 Q And you weren't put in jail after you agreed
3 to cooperate, were you?

4 A Yes.

5 Q After you agreed to cooperate in February you
6 were put in jail?

7 A I just got out from the charge.

8 Q In February of '69 you were arrested on or
9 about February 4th; is that right?

10 A Right.

11] Q On February 5th were you in jail?

12 A No.

13 Q All of February you weren't in jail?

14 A No.

15 Q You were out on the street cooperating with
16 Agents Taylor and Wurm; isn't that right?

17 A Yes, you could say that.

18 Q And didn't you say to them and to Captain
19 McGowan -- withdrawn.

20 Didn't you say to them that you planned to reestablish
21 contact with Vinnie?

22 A Yes, that's a good possibility I did and more
23 than likely I must have tried.

24 Q How did you try?

25 A At this time they had a constant wiretap in
2370 Tiebolt Avenue.

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Q Your home was wiretapped?

A I don't know about mine.

Q Now, let me ask you this:

Did you ask any of the agents where Vinnie was, any of the agents where Vinnie was assigned?

This is February '69 now.

A I didn't have to ask no agents where he was assigned.

Q Why, was he in Harlem?

A Yes, he was in Harlem all over.

Q Was he in Harlem in February?

A I don't know.

Q Was he in Harlem in March?

A I don't know at that time where he was at, he was all over.

Q Did you see him in Harlem in February of '69?

A No.

Q Did you see him in March?

A No, it would be difficult for me to see him unless I went to search for him.--

Q Did you see --

A (Continuing) or contact him?

Q Did you search for him?

A No, I would ask.

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Q Did you ask for him?

A What?

Q Did you ask for him?

A I asked a couple of different people.

Q Whom did you ask, do you recall?

A I asked one named Jappo.

Q Who is that?

A Jappo.

Q Where was he located?

A Downtown around 17th Street.

Q Did you ask the agents to find out where he
was?

A No.

Q Didn't you think they would know?

A Of course they would know, I guess, I didn't
know, I don't know what the agents know.

Q You were working with the Federal Government.

A That doesn't mean that I had full capacity of
whatever they knew.

Q You could ask, couldn't you?

A I guess I could have.

(Continued on next page.)

1-3 1
EK/flp.

Wright-cross

115

- 2 Q You were working with Smithy for a long time?
- 3 A Smithy wasn't even in the State then.
- 4 Q Excuse me.
- 5 A Smithy was not in the State at that time.
- 6 Q Ok.
- 7 A Not to my knowledge.
- 8 Q But you knew Agent Taylor and Agent Wurms?
- 9 A Yes.
- 10 Q And you were cooperating?
- 11 A I just had met him then.
- 12 Q Excuse me.
- 13 A I just had met them.
- 14 Q But you were cooperating with them?
- 15 A At that point?
- 16 Q Yes.
- 17 A I just had met them.
- 18 Q And you were supposed to go out and reestablish
- 19 contact with Vinnie to purchase narcotics from him; isn't
- 20 that right?
- 21 A It's a possibility I must have, I might have
- 22 told Mr. Taylor that.
- 23 Q And you were indicted in December of 1969,
- 24 weren't you?
- 25 A I was indicted on November 24, 1969.

21

Q Ok.

2

3

And between February 4, 1969 and November 24, 1969, did you ever see Vinnie?

4

A I seen him drive through.

5

Q When did you see him drive through?

6

A Oh, I don't exactly recall.

7

Q Well, was it during the Summer?

8

A Of course it was during the Summer.

9

Q July, August?

10

A During the Summer, but I don't recall it for me to pay him any attention --

12

Q Did you see him?

13

A If he wanted to see me he could have, he would have come and found me.

15

Q Did you see him in October?

16

A No.

17

Q Did you see him in November?

18

A No.

19

Q Well now, when you saw him driving by in Harlem, was that Summer now?

21

A I would say yes, I would say so, I would see him coming up and down around then.

22

23

Q Would you say that it was in August?

24

A I don't know exactly the month, sir.

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Q When you saw him, you knew you were supposed to be in contact with him, didn't you?

A Yes.

Q Why didn't you go up and say, Hi, Vinnie, how are you doing?

A I had a different view of things at that point.

Q Well, let me suggest to you, Mr. Wright, that maybe you didn't do it because you had never bought heroin from Vinnie; could that be a possibility?

A No.

Q Let me suggest to you also that you made up that story and agreed to cooperate and to contact Vinnie just to get out of the clutches of Agent Wurm and Agent Taylor; would that be a possibility?

A No.

Q Let me suggest to you that you were indicted eleven months later because you didn't produce any; is that right?

A I believe you are right on that.

Q That is right, isn't it, Mr. Wright?

A I definitely believe you are correct on that matter.

Q Didn't you go to trial?

A Yes.

2 Q You testified?

3 A No.

4 Q What were the charges against you, Mr. Wright?

5 A Sale of narcotics.

6 Q Sale to whom?

7 A Mr. -- I can't remember the name, nonetheless
8 you know, I know whom I am talking to.

9 Q Mr. whom?

10 A I don't remember.

11 Tell me your name?

12 Q Jones.

13 A Mr. Jones, now, Mr. Jones --

14 Q Are you making this up now, Mr. Wright?

15 A I beg your pardon.

16 Q Were you telling me a story about a name I
17 just gave you?

18 Do you know Mr. Jones?

19 A You told me that was your name.

20 Q You asked me for a name to tell a story about,
21 you want another name?

22 A I asked you --

23 Q How about Smith, tell me what you did that you
24 were indicted for, Mr. Wright?

25 A I was indicted for sale of narcotics.

5 1

2

Q To whom?

3

A I don't remember.

4

Q Did Agent Wurm testify at your trial?

5

A I don't recall.

6

Q Did Agent Taylor testify at your trial?

7

A I don't recall.

8

Q When did you get convicted?

9

A In April of 1970.

10

Q Were you interviewed in 1971 at the West Street

11

House of Detention by Sergeant R. V. Esposito?

12

A I do remember vaguely someone came to see me

13

right after I got convicted by the State.

14

Q And that was in May --

15

A I refused to sit there.

16

Q That was in May 1971?

17

A I refuse to say anything.

18

Q Mr. Wright, isn't it a fact that you actually

19

saw him and spoke to him?

20

A I beg your pardon.

21

Q Isn't it a fact that you saw him and spoke to

22

him?

23

A I don't think you are familiar with the West

24

Street procedures at that time.

25

Q I am familiar with the way they work, I am asking

6 1
2 you a question:

3 Isn't it a fact that you actually saw and spoke
4 to Sergeant Esposito on May 20, 1971?

5 A If you are speaking -- if I speaking it was to
6 who actually was there to see me and he came and identified
7 himself, then I would say I spoke.

8 Q Do you remember telling Sergeant Esposito that
9 you were framed by the Federal Authorities?

10 A Yes, I could remember that. I was framed by
11 the Federal Authorities and also by the State of New York,
12 yes.

13 Q And do you remember telling him that you didn't
14 want to talk about Vinnie unless he could promise you that
15 you would get out of jail: Do you remember that?

16 A No.

17 Q You don't remember that at all?

18 A No, I didn't talk to him that much, I didn't
19 say no more than that he produced his identification.

20 MR. SANTANGELO: I offer a copy of the report,
21 I offer a copy of the report given to me by the Govern-
22 ment dated May 20th, 1971, and signed by Sergeant R.V.
23 Esposito as defendant's exhibit B.

24 MR. PUCCIO: I have no objection.

25 THE CLERK: Defendant's exhibit B received in

2 evidence.

3 BY MR. SANTANGELO:

4 Q What sentence did you get after being convicted
5 of a sale of narcotics?

6 A Nine years.

7 Q And how long did you serve?

8 A Six years, ten days.

9 Q Six years and ten days?

10 A Correct.

11 Q You served the maximum time?

12 A The maximum, deducting good time, time for
13 good behavior.

14 Q And that is what they had to give you?

15 A That is what they had to give me.

16 Q And anything they didn't have to give you, they
17 didn't give to you?

18 A They didn't give to me.

19 (continued next page)

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CROSS-EXAMINATION

BY MR. SANTANGELO: (Continues.)

Q You were convicted of kidnapping, weren't you?

A Yes.

Q In the State of New York?

A Yes.

Q Did you testify at that trial?

A No.

Q What sentence did you receive?

A Fifteen years.

Q That sentence of 15 years for kidnapping is behind the 9 for sale of narcotics, is n't it?

A Correct.

Q It's not concurrent? It's consecutive, isn't it?

A Correct.

Q And you would sometime have to go in to start serving that 15 years, don't you?

A Correct.

Q During this whole 6 year time that you spent in federal penitentiaries, you didn't cooperate with the federal authorities, did you?

A I don't quite understand what you mean by cooperation. Cooperate with them?

Wright-cross

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Q You refused to talk about Vinnie until somebody got you out of jail?

A I got myself out of jail.

Q As long as you were in jail, you weren't going to talk about anybody, were you?

A No one ever asked me.

Q Sergeant Esposito asked you?

A I didn't know whether he was a sergeant or what he was. A lot of people say they're a lot of things. I assume they still do.

Q When did you get out?

A May the 20th.

Q What year?

A 1976.

Q Did you -- withdrawn. Were you paroled into the custody of the Department of Correction?

A Yes. Not paroled.

Q You maxed out? You're still on federal parole? Don't you know that?

A No, and you don't either.

Q You only did 6 years, ten days?

A I'm out on unconditional release. It is not a parole.

Q Where did you go from federal prison?

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Wright-cross

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A To Philadelphia. I mean that's where I

3

supposed to report to.

4

Q To Philadelphia?

5

A Yes.

6

Q Did you go to a state prison?

7

A No.

8

Q You haven't started serving your 15 year term?

9

A No.

10

Q When do you expect to start it?

11

A Any day.

12

Q Do you have an appeal pending?

13

A Yes.

14

Q When did you first see Mr. Puccio?

15

A If I'm not mistaken, it was on the 8th day of

16

February. If I'm not mistaken.

17

Q Of 1977?

18

A Correct.

19

Q Did you ask him to help you with regard to your

20

15 year sentence for kidnapping?

21

A Yes. I asked him if he would help me. I would

22

help him.

23

Q And did he say he would help you?

24

A Yes.

25

Q And did he say what kind of help he would give

Wright-cross

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you?

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A No. Not specifically.

4

Q Did he say he would write a letter to the

5

parole board?

6

A Yes.

7

Q By the way, do you have a --

8

A Parole Board?

9

Q Withdrawn.

10

A I beg your pardon. I'm sorry. I withdraw what

11

I said.

12

Q I'm sorry. Withdrawn. Did -- your state

13

sentence, is that a sentence of zero to 15 years?

14

A No.

15

Q What kind of a sentence is it?

16

A Indeterminate.

17

Q So that's anywhere from zero to 15?

18

A Yes.

19

Q You didn't get 5 to 15?

20

A No.

21

Q No. So that you know that after 90 days, you

22

could be considered for parole? Isn't that right?

23

A Yes. A lot of time they consider people for

24

parole.

25

Q You expect Mr. Puccio, after that 90 days is up,

1
2 to help you with the Parole Board, don't you?

3 A I don't expect anything from Mr. Puccio. I
4 would appreciate if he would do something. I don't know what
5 he'll do.

6 Q And in appreciation for that, you'll testify
7 against Vinnie, won't you?

8 A Of course.

9 Q Did you ever make an arrest for Smitty?

10 A What do you mean make an arrest?

11 Q Did you ever point somebody out and say he's
12 dealing in narcotics and then Smitty arrested him?

13 A No.

14 Q Did you ever testify for Smitty?

15 A No.

16 MR. SANTANGELO: No further questions, your
17 Honor.

18 MR. PUCCIO: I have a few additional questions,
19 if I may, Judge.

20 (Continued on next page.)
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T2PMR2
GR:BS 2

Wright-redirect

127

REDIRECT EXAMINATION

3 BY MR. PUCCIO:

4 Q Mr. Wright, on Monday of this week, you came
5 to my office and spoke briefly with Mr. Santangelo, isn't
6 that correct?

7 A Yes.

8 Q And during the conversation he requested that
9 you examine a book of photographs, which is maintained by
10 the U. S. Government, isn't that correct?

11 A Yes.

12 Q Is this the book that you examined?

13 MR. SANTANGELO: Your Honor, I object as not
14 proper redirect.

15 MR. PUCCIO: I believe it is relevant, your
16 Honor.

17 THE COURT: I will permit it.

18 A It looks like it, yes. I would say so.

19 Q Take a look at it and see if it is in fact the
20 book you were shown this Monday.

21 MR. SANTANGELO: Your Honor, I will stipulate
22 that he picked out a picture of Mr. Albano from the
23 book. No need to go into that.

24 MR. PUCCIO: I'd ask that the book be received
25 for the purpose of the hearing, your Honor. It does

Wright-redirect

contain a picture of the defendant, in which he looks quite different from the way he appears today. He is much stockier, his face is much fuller.

THE COURT: All right. Mark it.

MR. PUCCIO: Thank you, Judge. For the record, the photograph that Mr. Wright selected on Monday in Mr. Santangelo's presence is photograph 70.

THE COURT: 70?

MR. PUCCIO: That is right.

THE COURT: All right.

MR. PUCCIO: And which would mean he would have had to have looked through numerous photographs before he got to that one. I might also point out, your Honor, that he -- the witness had never been shown photographs previously, to my knowledge.

THE COURT: All right.

MR. PUCCIO: Out of the presence of defense counsel. He selected this without any hesitation.

MR. SANTANGELO: With a little hesitation, Judge. I would not stipulate that far.

MR. PUCCIO: I do not know what number the Government is up to, your Honor.

THE CLERK: Government Exhibit 1 in evidence.

(book with photographs so marked)

EXIA

Wright-redirect

Q Now, Mr. Wright, can you explain to us why after the two incidents, the two early incidents that you had previously related had taken place, that is, the time when defendant came into your apartment on Tiebout Avenue and also the other incident relating to the Lenox Terrace parking lot; can you explain to us why after these two incidents took place you engaged in three narcotics transactions with Mr. Albano?

MR. SANTANGELO: Objection, your Honor. Speculation and calls for a conclusion. It is not a proper question.

THE COURT: I will permit it.

Q Explain that to us, please.

A It was -- it is a known fact in Harlem that you could easily get crossed by any officer, whenever they got ready. So you either want to go along with the program or you get stepped on, one of the two.

Q Now, was that in your mind when you engaged --

A That was a fact, Mr. Puccio.

Q Well, was that something that you were thinking of when you engaged in these narcotics transactions?

MR. SANTANGELO: Objection, your Honor.

THE COURT: Sustained.

Q Now --

172A

4 1 Wright-redirect

2 A Yes, sir.

3 Q By the way, when you were first interviewed
4 by Mr. Taylor and Mr. Worms in February, 1969, they told
5 you, did they not, that they were members of the Federal
6 Government's Inspection Service, is that right?

7 A Yes.

8 Q And didn't they also tell you or did they
9 also tell you that they were investigating Federal Agents?

10 A Yes.

11 Q And did you give them information about
12 Federal Agents?

13 A Yes.

14 Q And, as a matter of fact, you gave them infor-
15 mation about an agent --

16 MR. SANTANGELO: Objection, your Honor, about
17 any other information he gave about any other agents.

18 MR. PUCCIO: Your Honor, the question was
19 asked on cross-examination, question was asked to this
20 effect, "didn't Mr. Wright give this information about
21 Albano to the Federal Agents in order to satisfy them
22 and get them off his back?"

23 THE COURT: I do not want to go into this.

24 MR. PUCCIO: I just want to add to the record
25 an affidavit, if I may, concerning a Federal Agent,

Wright-redirect

5 1
2 a narcotics transaction with a Federal Agent, several
3 narcotics transactions with a Federal Agent that this
4 witness signed.

5 THE COURT: I do not see any point in spread-
6 ing it on the record. You have made your point.

7 MR. PUCCIO: All right, fine. I have no
8 other questions, your Honor.

9 THE COURT: Thank you very much, sir. That
10 will be all.

11 THE WITNESS: Thank you.

12 THE COURT: Next.

13 MR. PUCCIO: Your Honor, I don't have any
14 additional witnesses.

15 THE COURT: This is the witness?

16 MR. PUCCIO: Yes.

17 THE COURT: You want time to interview your
18 other witnesses now?

19 MR. SANTANGELO: Yes, your Honor.

20 THE COURT: All right. How much time do you
21 want?

22 MR. SANTANGELO: Can I take ten minutes, your
23 Honor? There are two people out there that I had
24 never seen before.

25 THE COURT: Certainly. All right. We will

173
1 convene again at exactly ten to 6:00 -- ten to 7:00.
2 Ten to 7:00.

3 MR. SANTANGELO: Thank you, Judge.

4 (cont'd on next page)
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132

MR. SANTANGELO: Should we begin, your Honor?

I'll get Mr. Puccio. I thought you were going to
take the other case.

THE COURT: Does the defendant have a witness?

MR. SANTANGELO: Yes, your Honor.

THE COURT: Call him.

MR. SANTANGELO: Mr. McCann.

THE COURT: Swear the witness, please.

J O H N B. M c C A N N , called as a witness, having
been first duly sworn by the Clerk of the Court, testified
as follows:

THE WITNESS: John B. McCann, 2788 Web Avenue,
Bronx, New York, 10468. I'm a retired police officer.

DIRECT EXAMINATION

BY MR. SANTANGELO:

Q Mr. McCann, how long were you in the police
department?

A Thirty-three years, 3 and a half months,
approximately.

Q When did you retire?

A June 21, 1969.

Q Were you ever a Captain in the police department?

A Yes.

Q Were you ever a Captain in the 32nd precinct?

A Yes.

Q And during what period of time were you a Captain in the 32nd precinct?

A From the early part of May to the middle of May, 1961, to about the middle of June, 1964.

Q Now, did you spend some time prior to testifying here in Mr. Puccio's office?

A Yes, I did.

Q Approximately how much time did you spend in Mr. Puccio's office today?

A First time I was in there I guess maybe 15 minutes. And the second time maybe 10 minutes.

Q Did you answer all his questions?

A Yes.

Q Were you introduced or did you see an individual identified as Clifton Wright?

A Yes, I did.

Q Had you ever seen Mr. Wright before today?

A Not to the best of my knowledge.

Q Was Mr. Wright asked in your presence whether he had ever seen you?

A He said he didn't remember seeing me.

Q Do you know Mr. Albano?

A No. Never saw him before.

Q Did you ever see him before today?

McCann-direct

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A No.

3

Q Were you attached to the 32nd precinct in 1965

4

or 1966?

5

A No, I wasn't.

6

Q Did you ever receive a report from Clifton

7

Wright that a policeman named Vinnie has stolen \$3400 from

8

him?

9

A Never.

10

MR. SANTANGELO: No further questions, your

11

Honor.

12

CROSS-EXAMINATION

13

BY MR. PUCCIO:

14

Q Inspector or Mr. McCann, were you familiar with

15

a gambling club that was located on 136th Street that was

16

within the 32nd precinct?

17

A Yes. There were several arrests made there.

18

Q I see. Were you familiar with a person named

19

Cliff who was associated with that gambling club?

20

A Not there. I can't remember anybody by that

21

name.

22

Q Are you familiar with what the term "pad" means?

23

A Yes, I am.

24

Q Do you know whether or not a gambling pad existed

25

in the 32nd precinct?

178A

174
4 1
2 A Not to my knowledge.

3 MR. PUCCIO: Thank you. I have no other
4 questions.

5 MR. SANTANGELO: No further questions, your
6 Honor.

7 THE COURT: Thank you, Inspector. Next witness.

8 MR. SANTANGELO: Mr. Daniel Greenfield.

9 D A N I E L G R E E N F I E L D , called as a witness,
10 having been first duly sworn by the Clerk of the Court, testi-
11 fied as follows:

12 THE WITNESS: I live at 11 Ballon Drive in
13 Yonkers, New York.

14 DIRECT EXAMINATION

15 BY MR. SANTANGELO:

16 Q Mr. Greenfield, are you presently a member of
17 the New York City Police Department?

18 A No, I am not.

19 Q Did you retire?

20 A Yes, I did.

21 Q When did you retire?

22 A I don't remember the exact date but I think it
23 was -- I know it was in 1974. I think it was in October.

24 Q Were you ever attached to the 32nd precinct?

25 A No, I was not. 173A

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Q Were you ever in the 32nd precinct?

3

A Yes, I was.

4

Q And what were your duties in the 32nd precinct?

5

A I was assigned to the 6th division, which had

6

an office in the 32nd precinct, the 6th division encompassed

7

3 different precincts, the 32nd, the 28th and the 25th pre-

8

cincts.

9

Q When were you so assigned? As a Lieutenant?

10

A As a Lieutenant, I was assigned -- well, I'll

11

have to go back a little. I don't know exact dates but in

12

1958, I was assigned to the 10th division, which was at the

13

28th precinct. The 10th division then became, was renumbered

14

6th division and it moved up to the 32nd precinct and I cannot

15

tell you what date that was.

16

Q Approximately how long did you serve as a

17

Leutenant in the 6th division?

18

A In the 6th division, I would say, approximately

19

5 years.

20

Q That would take us to approximately 1963? Is

21

that correct?

22

A I thought it was '63, but my recollection has

23

been refreshed and I have been informed that the actual date

24

was sometime in 1963 that I left the 6th division.

25

Q Were you in the 6th division and thereafter in

Greenfield-direct

6

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2

the 32nd precinct in 1964?

3

A No, I was not.

4

Q Were you there in 1965?

5

A I was retired in 1965. I retired before 1965.

6

Q If I recall your testimony, you retired in

7

October of '74?

8

A '64.

9

Q I'm sorry.

10

A '64.

11

Q You retired in October of 1964?

12

A '64, that's correct.

13

Q Did you spend any time in Mr. Puccio's office

14

this afternoon?

15

A Yes. Sure.

16

Q Approximately how long?

17

A I would say a total of 10 minutes.

18

Q Did you answer his questions?

19

A Yes.

20

Q And were you introduced to someone identified

21

as Clifton Wright?

22

A Yes.

23

Q And did you ever see that man before today?

24

A Not to my knowledge.

25

Q And was he asked in your presence whether he

Greenfield-direct

1
2 recognized you?

3 A Yes.

4 Q And what did he say?

5 A The answer I got was, it was not a definite
6 answer, I can't -- it was I can't put -- put it together or
7 something like that. I can't put the two together. I don't
8 remember the exact phraseology and then Mr. Puccio then asked
9 him well, can you identify them individually and the answer
10 was -- no.

11 Q The answer was what?

12 A No.

13 Q In 1965 or 1966, did you ever get a report from
14 Clifton Wright that a police officer by the name of Vinnie
15 had robbed him of \$3400?

16 A No, I did not. I had no contact with the police
17 department after my retirement, except in so far as my new
18 employment was concerned. I was in the investigating business
19 and I had occasionally to go in and look for an accident
20 report, investigating automobile accidents.

21 Q Did you ever see Mr. Albano?

22 A No.

23 Q Before today?

24 A No.

25 MR.SANTANGELO: No further questions.

8

1

MR. PUCCIO: I have no questions, thank you,

2

Judge.

3

THE COURT: Thank you. All right.

4

THE WITNESS: Thank you.

7

MR. SANTANGELO: Your Honor, I have one more witness, which I'm not prepared to put on tonight. I would ask for sometime either tomorrow or Friday to do that. It won't take more than a half hour.

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THE COURT: I can't give you tomorrow.

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(Continued on next page.)

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THE COURT: How is Friday at 5:30?

MR. SANTANGELO: Fine. Thank you, Judge.

THE COURT: Will the Government have any further witnesses?

MR. PUCCIO: I don't believe so. I think we should at least be afforded an offer of proof on this last witness, in the event we want to meet that witness's testimony. We have been open in supplying --

MR. SANTANGELO: I will interview the witness tomorrow and upon interviewing him I will call Mr. Puccio and tell him the substance of his testimony.

THE COURT: Thank you. Good night everybody.

MR. SANTANGELO: Thank you, your Honor.

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 UNITED STATES OF AMERICA :

5 -against- :

6 VINCENT ALBANO, :

76 CR 481

7 Defendant. :
8 -----X

9
10 United States Courthouse
Brooklyn, New York

11 March 2, 1977
12 10:00 o'clock a.m.

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16 Before :

17 HONORABLE JACK B. WEINSTEIN, U.S.D.J.
18
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21
22
23 MICHAEL PICOZZI
24 OFFICIAL COURT REPORTER
25

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1 **Appearances:**

2 DAVID G. TRAGER, ESQ.
3 United States Attorney
4 for the Eastern District of New York

5 BY: THOMAS PUCCIO, ESQ.
6 Assistant United States Attorney

7 MICHAEL SANTANGELO, ESQ.
8 Attorney for defendant

THE COURT: All right, swear the witness.

B A L K R I S H E N A K A U L , a witness called on
behalf of the defense was sworn by the Clerk of the
Court and testified as follows:

DIRECT EXAMINATION

BY MR. SANTANGELO:

Q Dr. Kaul, where are you employed?

A I work for the City of New York. I am the
chief of toxicology.

Q As chief of toxicology, what are your duties
with the City of New York?

A My primary duties are concerned with the
analysis of drugs and other activities related to heavy
metal poison and research and development in both areas.

Q Prior to your job as chief toxicologist for
the City of New York, where were you employed?

A Prior to my appointment with the City of
New York, I was for one year with S. B. Pennick, one of the
three companies licensed by the United States Government
to deal with narcotics and prior to that I was chief medical
examiner with New Jersey State for almost two years. Prior
to New Jersey, medical school for three years.

Q I understand you are a graduate from the
Nebraska University College of Pharmacy also?

A Yes.

1
2 Q Doctor, I would like to ask you about the
3 various color tests for heroin. Are you familiar with the
4 color tests for heroin?

5 A Yes.

6 Q Is it not a fact, Doctor, that there are a
7 certain number of recognized laboratory tests for heroin?

8 A Yes.

9 Q Could you tell us specifically what laboratory
10 tests are standard or recognized?

11 THE COURT: Are you trying to attack the
12 credibility of the witness with respect to the test
13 he made?

14 MR. SANTANGELO: Yes, your Honor.

15 THE COURT: Get to that.

16 MR. SANTANGELO: Yes, your Honor.

17 Q I would like to ask you about the reaction of
18 hydrochloride acid to heroin?

19 A As far as I know, there is no reaction either
20 in the concentrated form or diluted form of heroin.

21 Q Are you familiar with the reaction of hydro-
22 chloric acid on heroin if allowed to stand for 15 minutes?

23 A No reaction, as far as I know.

24 Q Have you conducted these tests with hydro-
25 chloric acid?

A Yes.

MR. SANTANGELO: Thank you very much.

CROSS-EXAMINATION

BY MR. PUCCIO:

Q Sir, is it true that if nitric acid is placed on heroin it would turn the heroin green?

A Yes.

MR. PUCCIO: That's all.

REDIRECT EXAMINATION

BY MR. SANTANGELO:

Q Doctor, if nitric acid were added to heroin, how long would it take the heroin to turn green?

A Almost immediately.

Q If allowed to stand for 15 minutes can you tell us what would happen to the green color?

A It would fade.

Q What would it fade to, if it would fade to anything?

A It would become yellow and --

Q Lose its green color?

A Yes.

MR. SANTANGELO: Thank you.

THE COURT: Thank you, that will be all.

MR. SANTANGELO: No other witnesses.

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1 Your Honor, I spoke to Mr. Puccio. I am not
2 familiar with the chronology of the exhibit but one
3 of the exhibits is the defendant's medical record
4 while he was at Albert Einstein's from July 17, 1969
5 to his discharge date of July 31, 1969, and I ask
6 Mr. Puccio to stipulate that this be a defendant's
7 exhibit --

8 THE CLERK: Exhibit C.

9 THE COURT: Any objection?

10 MR. PUCCIO: No objection.

11 THE COURT: Mark it.

12 THE CLERK: Defendant's Exhibit C in evidence.

13 MR. SANTANGELO: The second item, your Honor,
14 which would be Defendant's Exhibit D in evidence is
15 the criminal record of the witness Clinton Wright
16 or Clifton Wright, I have a copy given to me by the
17 Government and it is a marked copy --

18 MR. PUCCIO: I have no objection.

19 THE CLERK: Defendant's Exhibit D in evidence.

20 MR. PUCCIO: Presumably the blue marks are not
21 to be considered.

22 MR. SANTANGELO: That is correct.

23 The third item is a stipulation from the
24 Government that there is no lieutenant Abbott in the
25 32nd Precinct --

1 THE COURT: No what?

2 MR. SANTANGELO: No Lieutenant Abbott in the
3 32nd Precinct or the Police Department.
4

5 MR. PUCCIO: There are Abbotts in the Police
6 Department. Our search indicates there was no
7 Lieutenant Abbott during that period of time.

8 THE COURT: All right.

9 MR. SANTANGELO: One thing, your Honor, which
10 is indicated in the record which I would like to --
11 on page 25 of the February 22nd minutes Mr. Puccio
12 indicated that after the testimony of the witness
13 using hydrochloride -- page 25, February 22nd,
14 subsequent to the witness testifying that he used
15 hydrochloride on line 17, Mr. Puccio indicates:
16 "We don't have any chemist here but it is a legitimate
17 field test..." and the Court indicated "I know."

18 I wonder if the Government would withdraw
19 that statement?

20 MR. PUCCIO: Your Honor, I believe that acid
21 test --

22 THE COURT: I didn't know the difference
23 between hydrochloride and nitric acid. But I accept
24 the testimony of this witness.

25 MR. SANTANGELO: Thank you very much. Is
this adjourned until Monday?

1 THE COURT: When is it on for sentence?

2 MR. SANTANGELO: My brother would like to put
3 this all together prior --
4

5 THE COURT: When is it on for sentencing?
6 When do you want it on for sentencing?

7 MR. SANTANGELO: When it's convenient for the
8 Court. If you give him a couple of days after
9 Monday -- he is coming back from St. Croix --

10 THE COURT: When?

11 MR. SANTANGELO: Can we put it on for
12 Wednesday?

13 THE COURT: Wednesday at 9:30.

14 MR. SANTANGELO: Thank you very much, your
15 Honor.

16 THE COURT: Any other evidence?

17 MR. SANTANGELO: No.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
-against- : 76-CR-481
VINCENT ALBANO, :
Defendant. :

-----X

United States Courthouse
Brooklyn, New York
March 9, 1977
9:30 o'clock A.M.

Before :
HONORABLE JACK B. WEINSTEIN, U.S.D.J.

PERRY AUERBACH
ACTING OFFICIAL COURT REPORTER

1

2

Appearances:

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4

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

5

6

BY THOMAS PUCCIO, ESQ.
Assistant U.S. Attorney

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GEORGE L. SANTANGELLO, ESQ.
253 Broadway
New York, New York
Attorney for Defendant

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1 THE CLERK: For sentence, Vincent Albano.

2 MR. PUCCIO: Good morning.

3 MR. SANTANGELO: Good morning, your Honor.

4 THE COURT: Have you read the Probation report?

5 MR. SANTANGELO: Yes, your Honor.

6 THE COURT: And discussed it fully with your
7 client?

8 MR. SANTANGELO: Yes, your Honor.

9 THE COURT: Is there anything further you wish
10 the Court to do before I hear you on the sentence?

11 MR. SANTANGELO: Yes, your Honor.

12 At this time, your Honor, I refer to my
13 previous motion made returnable January 31st, and add
14 to that application at this time, your Honor, that a
15 new Probation report be added; that your Honor recuse
16 himself on the ground that the Probation report, as
17 the hearing indicated, was insupported in no way,
18 insofar as the allegations of the illegality is
19 concerned, and that since the Probation report was
20 presented to the three-judge panel, as it stands now,
21 without the benefit of the hearing, without the
22 benefit of the evidence presented by way of direct and
23 cross-examination, that your Honor as much as I respect
24 your Honor, it would be very difficult in my mind for
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your Honor to sit here and excise from his mind the thrust, the main thrust as your Honor put it on January 31st of the Probation report that Mr. Albano was a corrupt police officer.

THE COURT: All right, you want the case assigned to another judge of this court?

MR. SANTANGELO: Yes, your Honor.

THE COURT: All right, I will be glad to do that.

MR. SANTANGELO: If your Honor please, I would also like it assigned to a different panel so that the defendant can have the benefit --

THE COURT: We can check. I don't think another panel has decided it. The motion to have another Probation report is denied.

The Court, based on the hearings, finds that the one witness provided by the Government was not a credible witness in any respect. He was completely destroyed on cross-examination by other witnesses.

The Court finds that there is no credible evidence that has been furnished by the Government indicating that this defendant dealt in narcotics.

There is, however, the permissible inference based on the nature of the income and the position of the defendant that he may well have obtained income from corrupt sources. As to that, the Court makes no

1 finding. That will be up to a new judge.

2 MR. PUCCIO: Your Honor, it seems to me that the
3 rules are designed to have these things, if necessary,
4 and as a result of the hearing, have the judge
5 disqualify himself.

6 THE COURT: I have made an invariable rule in
7 view of the fact that this is a nine-judge court.
8 If any lawyer or litigant feels that another judge can
9 be fairer to him than I, let it go to another judge.
10 I don't want to hold onto the case. I think every
11 litigant in the court ought to have a sense that he's
12 being treated fairly. If this defendant feels another
13 judge can treat him fairly, I would like him to be
14 treated fairly.

15 MR. SANTANGELO: If your Honor please, I don't
16 think the sending to another judge is going to do any
17 good if the Probation report remains as is.

18 THE COURT: I am not going to seal a Probation
19 report. I have no authority to do so. I have made my
20 findings on the report. All the documents are before
21 a new judge, and he will have to decide what to do with
22 it. I am certainly not going to suppress any evidence.

23 MR. SANTANGELO: If your Honor please, if the
24 information is not supported by any credible evidence
25 it should be stricken.

1 THE COURT: I don't agree with you, and I am
2 certainly not going to suppress or seal everything.
3 I don't believe in doing it. I believe every Judge in
4 this court is capable of evaluating this report in
5 view of my findings.

6 Now, you may be right that it should be sealed
7 in some way. If so, I suggest you take an appeal
8 from my ruling, if such an appeal is possible. I
9 don't believe it wise to try to suppress documents.

10 If it were sent to any judge at all, it would be
11 to just one judge, but I don't think it was sent to one
12 judge.

13 In view of the fact that there was this request
14 for a hearing, I think I held up sending it to the
15 panel, so I don't think there was a panel discussion
16 on it.

17 That's no problem. We can go to the other
18 judge, and any other judge can take it.

19 MR. PUCCIO: Your Honor, it would seem to me
20 that counsel would make the same motion before the
21 next judge.

22 MR. SANTANGELO: I will, your Honor.

23 THE COURT: Well, he may do it. I think that
24 will be the end of it. I certainly wouldn't grant
25 another motion in a case like this.

1 I think every litigant has a -- or should have
2 the power to challenge one judge. As a matter of fact,
3 I think that's a healthy procedure. It's a practical
4 procedure if a litigant doesn't like the first judge,
5 that the case is assigned -- he gets a peremptory
6 challenge.

7 MR. SANTANGELO: It's not a question of liking
8 a particular judge, your Honor. It's a question of
9 having a Probation report, which your Honor indicated
10 from the bench the thrust of which the defendant was
11 a corrupt police officer.

12 The Government was challenged on that allegation.

13 THE COURT: They supported it with no evidence.

14 MR. SANTANGELO: With no evidence, that's
15 correct, your Honor. As far as I'm concerned, there-
16 fore the specific denials and challenges which I made
17 in my motion to contravene the pre-sentence report,
18 the Government hasn't come in and supported, I have
19 made maybe ten or fifteen challenges. Particularly,
20 for instance, the fact that the Probation report
21 indicated that the defendant was dismissed from the
22 police force, when in fact he wasn't.

23 So it's not even a question of the Probation
24 report just being mistaken. It's a question of the
25 Probation report being almost carelessly negligently

1 prepared insofar as the Government having such an
2 overbearing influence on the Probation officer in this
3 particular case, that no judge, I believe, can read
4 that Probation report, because there's nothing in it
5 at all about the defendant. All there is in that
6 Probation report, your Honor, as I have detailed in
7 my motion, are allegations of illegality, and I recall
8 the Probation officer sitting at that hearing we had
9 for three or four days at the prosecutor's desk, and
10 in my mind, your Honor, for a Probation officer to sit
11 at that prosecutor's desk when he's supposed to be fair
12 and impartial and unbiased middle man taking both sides
13 of the story, it's unbelievable to me, and I don't
14 think anything can be done in any particular case to
15 obviate the defendant going through without striking
16 those portions of the Probation report without support
17 by the evidence.

18 If the Court can't do something about it, what's
19 the use of having a Probation report to pass it on to
20 another judge?

21 THE COURT: Mr. Santangelo, sit back and relax.
22 I know you are not putting on a show. To me you
23 really do believe it from the heart. You can relax.
24 We can talk about this rationally without a lot of
25 emotion.

1 The Government makes all kinds of charges every
2 day against individuals. They are tried, and some
3 cases they are convicted. In some cases, they are
4 acquitted on some charges and convicted on other
5 charges. This is what we see every day, counsel and
6 judges.

7 If somebody's acquitted of a charge and
8 convicted on another charge he's sentenced on the charge
9 he's convicted on, not the other one.

10 The judges are trained to ignore charges and
11 to decide the cases based on the evidence in the case.

12 The Government's made a charge through the
13 Probation Department that this defendant dealt in
14 narcotics. The Government was put to its proof and it
15 came forward, the proof that the Court has said is not
16 credible. So I ignore that witness. They put the
17 witness on, but you utterly destroyed him in a variety
18 of ways, so his testimony is destroyed.

19 If you want another judge, you think another
20 judge can do your client more good, I am delighted to
21 have you have another judge, and I will grant your
22 motion. We will send it to another judge. Then you can
23 do what you want with that other judge.

24 I can tell you if another judge sent it to me
25 I wouldn't grant it, because I think you can't go on

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challenging every judge in the entire court. You are
entitled to one challenge, and I will give it to you.
But I am certainly not going to destroy a document
that's in the court. I wouldn't destroy an indictment.
I wouldn't destroy anything else.

What you have asked me to do is in effect
re-write history, and I don't do that.

(continued next page)

1 MR. SANTANGELO: I'm not asking your Honor to
2 re-write history. I'm asking that the defendant be
3 given the opportunity to have a Probation officer sit
4 down and write a Probation report or a pre-sentence
5 report that is not filled with these unsupported
6 charges.

7 THE COURT: You don't have that right. You
8 don't have the right to tell the Probation officer
9 how to write his report.

10 You have the right to challenge the Probation
11 officer's accuracy. That right has been given to you.

12 You had a full hearing, and you were very
13 successful.

14 That's as far as you can go. You can't tell a
15 Probation officer or anybody else how to write a report.
16 If you want to make a motion to have it sent to another
17 judge I will grant it. I am delighted.

18 MR. SANTANGELO: The only other thing I can
19 think of, your Honor, is with respect to the other
20 allegations which I made in the motion, whether your
21 Honor will consider or is not going to consider the
22 specific items which we believe contravened and not
23 supported by evidence.

24 THE COURT: I have made a finding only on the
25 one issue that was tried before me, this defendant

1 dealing in narcotics.

2 The Government has not proven that.

3 MR. SANTANGELLO: Well, there were other issues,
4 your Honor, which I raised in my motion, which I think
5 should be dealt with.

6 THE COURT: You have got a motion before me to
7 send it to another judge. That's the first order of
8 business you made. If you want to press the motion, I
9 can do that. I have other matters to take care of.
10 This is an important case to your client, but it's just
11 a case to me, and I am completely disinterested, it
12 makes no difference if I have it or don't have it. I
13 get no pleasure sending anybody to jail, and I don't
14 care one way or the other.

15 MR. SANTANGELLO: What I want right now is
16 ten minutes, because I don't think Mr. Albano is
17 prepared to decide.

18 I know what I particularly want to do in my own
19 head, and I want to discuss it outside the table.

20 THE COURT: I would be delighted.

21 MR. PUCCIO: I just might say for the record,
22 your Honor, your Honor has given clear and cogent
23 reasons why you can be eminently fair in this case, and
24 there's no reason for another judge --

25 THE COURT: Mr. Puccio, I am not interested in

1 the rationality of it. If anybody doesn't want me as a
2 judge I am delighted to have the case sent to another
3 judge.

4 MR. PUCCIO: There are two sides to the question,
5 Judge. We don't especially want you to. We don't --

6 THE COURT: Mr. Puccio, in the next case, if
7 you like another judge, I will grant your motion.
8 Anybody who wants to get out of my courtroom is welcome
9 to do so, and I am just as friendly to the lawyers
10 afterwards.

11 MR. PUCCIO: I will take that under advisement,
12 Judge.

13 THE COURT: Okay.

14 (Whereupon, a short recess was taken.)

15 (Whereupon, the following took place in open
16 court:)

17 THE CLERK: Albano.

18 THE COURT: Yes.

19 MR. SANTANGELLO: Your Honor, I think we may have
20 jumped ahead of ourselves, but in any event, what
21 disturbs me about the proceedings as they went this
22 morning is the following:

23 That there wasn't really any decision by you
24 with regard to the contravention of the allegations in
25 the report.

1 THE COURT: Well, make your motion specifically.

2 MR. PUCCIO: Your Honor, may I interrupt?

3 The first motion made was for your Honor to recuse him-
4 self because of bias.

5 THE COURT: That motion is still before me
6 unless you want to withdraw it. But as of this moment,
7 I want to hear whether you want to go forward with that
8 motion or not.

9 MR. SANTANGELO: In the motion I made in --

10 MR. PUCCIO: Your Honor --

11 MR. SANTANGELO: Please, Mr. Puccio. I would
12 like to go forward with the motion which was before
13 your Honor as of January 31st, which was a motion to
14 contravene the report. Your Honor granted a hearing
15 with regard to one aspect of it. Whether the defendant
16 had dealt in narcotics.

17 There were other aspects involved in that motion,
18 specifically --

19 THE COURT: Excuse me. Do you want me to
20 recuse myself or not, because I have other cases to
21 handle. If I am not going to be involved in the case I
22 don't want to have anything more to do with it.

23 MR. SANTANGELO: If your Honor please, I don't
24 want you to recuse yourself on the particular motion to
25 contravene the Probation report. You have made a

1 finding, your Honor, with regard to the witness. I
2 think it's incumbent upon you to make a finding with
3 regard to the other allegations in the Probation
4 report.

5 THE COURT: I have no information before me
6 that the other judge wouldn't have. I have held that
7 the witness had no credibility.

8 MR. SANTANGELO: Then your Honor, with respect
9 to the rumor and the hearsay regarding the illegalities,
10 for instance, in the Probation report it says --

11 THE COURT: Excuse me. Do you want me to
12 recuse myself or not?

13 MR. SANTANGELO: If your Honor please, I must
14 go through the allegations in the Probation report.

15 THE COURT: I am not going to make any findings
16 on anything else if I am going to be out of the case.
17 I want to go out, because I have other live cases.
18 If I am out of the case I have no interest now.

19 MR. SANTANGELO: If your Honor is going to pass
20 on the Probation report to another judge, I will then
21 be forcing --

22 THE COURT: You can do anything you want. I
23 am not telling you how to run your case. All I am
24 asking you, if you want to move for another judge, I
25 will grant your motion, and then we can both go on with

1 our business.

2 MR. SANTANGELO: Well, again I must ask the
3 following, your Honor, that at this time I would
4 withdraw the motion to recuse, and ask for a decision
5 with regard to the allegations in the Probation
6 report which were specifically contravened, a motion
7 that I made dated January 31st.

8 THE COURT: Are you then going to make a motion
9 to have a transfer to another judge after I finish
10 this?

11 MR. SANTANGELO: Yes, sir.

12 THE COURT: Your motion is granted. The Clerk
13 is directed to effect the transfer of the case to
14 another judge.

15 MR. PUCCIO: Your Honor, I just think that this
16 highlights that the game-playing that is taking place
17 here. Counsel wants you to make decisions, findings
18 and transfer to another judge here.

19 For the record, I want to say to that that your
20 Honor is really exercising a peremptory challenge to
21 another judge, and there's absolutely no basis at all
22 for your Honor's recusal.

23 THE COURT: That's my view. My view is any
24 counsel --

25 MR. PUCCIO: Including the Government.

1 THE COURT: (Continuing) -- is entitled to a
2 peremptory challenge if anybody feels that another
3 judge can do a better job.

4 MR. PUCCIO: I know, Judge --

5 THE COURT: I don't want to hear it.

6 MR. SANTANGELO: I want to say something with
7 regard to the findings you made.

8 THE COURT: Excuse me. Excuse me. The case is
9 no longer before me.

10 MR. SANTANGELO: If your Honor please --

11 THE COURT: Call the next case.

12 MR. SANTANGELO: If your Honor please, just one
13 more thing. You made a finding that according to the
14 Probation report there may be an inference of
15 corruption here, and I ask you, your Honor, to make
16 specific findings with regard to those allegations of
17 corruption which were contravened by my motion.

18 Now, your Honor refused to make a decision on
19 the specific allegations. Although you did pass on
20 to another judge on this record an inference that
21 corruption may be inferred, now I think that inference
22 is wholly unsubstantiated by any fact in the Probation
23 report, and I asked your Honor to make a decision on
24 it, but your Honor apparently has refused to make a
25 decision on it, and I don't understand it.

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THE COURT: The case is no longer before me.
Thank you very much.

MR. SANTANGELLO: I assume, your Honor, this case goes into the wheel?

THE COURT: I think that's the practice. I think the Chief Judge has the right to assign it. He normally proceeds by putting it into the wheel.

MR. PUCCIO: I would request in light of the unusual circumstances that the case be transferred to the Chief Judge.

THE COURT: That motion is granted.

The matter is referred to the Chief Judge. The Chief Judge will be informed that Judge Platt did sit on the panel.

MR. SANTANGELLO: And, your Honor, I assume this motion is still open to contravene the Probation report that you have made no decision on it.

THE COURT: I am not making any more decisions in this case.

Thank you.

(Whereupon, these proceedings were concluded.)

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ MAR 22 1977 ★

TIME A.M. _____
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3 -----x
4 UNITED STATES OF AMERICA, :

5 -against- :

6 VINCENT ALBANO, : 76-CR-481

7 Defendant. :
8 -----x

9
10 United States Courthouse
11 Brooklyn, New York

12 March 18, 1977
13
14

15 B e f o r e :

16 HONORABLE THOMAS E. PLATT, U.S.D.C.J.
17
18
19
20

21 PAUL GOLDWERT
22 OFFICIAL COURT REPORTER

23 I hereby certify that the foregoing is
24 a true and accurate transcription of the
25 stenographic notes in this case.

Paul Goldwert, C.A.R.

Official Court Reporter
U. S. District Court

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Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY. THOMAS PUCCIO, ESQ.
Assistant United States Attorney

GEORGE SANTANGELO, ESQ.
Attorney for Defendant

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2 THE COURT: I called this matter not to hold
3 a hearing today but to determine what, if any, issues
4 remained after the hearing that Judge Weinstein held
5 some time ago.

6 MR. SANTANGELO: Your Honor, I made a motion
7 returnable January 31. Judge Weinstein held a hearing
8 with regard to allegations of the Government involving
9 narcotics transactions involving the Defendant, and
10 found that the evidence that the Government presented
11 was incredible. There were other issues which I
12 contested.

13 THE COURT: And I want an enumeration of those
14 issues. That is why I called the hearing.

15 MR. SANTANGELO: At Page 8 the Probation
16 Report contains at two places the fact that Albano was
17 dismissed from the Police Department for misconduct.
18 We denied that and submitted as an exhibit to our
19 motion a decision of Mr. Justice Tierney of the Supreme
20 Court in the case of Vincent Albano against the Board
21 of Trustees of the Police Pension Fund.

22 THE COURT: That is one issue. You do not
23 have to go into the merits.

24 MR. PUCCIO: Your Honor, I do have a draft of
25 a response because there are so many different issues

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2 but on this point --

3 THE COURT: Why do we have to argue it? I
4 want to know the issues.

5 MR. PUCCIO: It is conceded that it is not
6 an issue, that he was not dismissed from the Police
7 Department.

8 THE COURT: It is conceded. It is a non-issue.
9 Narcotics is out.

10 MR. SANTANGELO: At Page 9 of the Probation
11 Report it states that Albano's cash investments during
12 the years in question, 1973 through 1974, could have
13 come from illegitimate sources. I attack that as
14 speculative and not based on any evidence, and I
15 thought that Judge Weinstein would cover that in his
16 hearing but apparently he did not.

17 THE COURT: He said one could draw that
18 inference.

19 MR. SANTANGELO: He said a permissible
20 inference may be drawn but he would not find it.

21 THE COURT: I can read what he said but, in
22 any event, he covered that issue.

23 MR. SANTANGELO: I do not believe so.

24 THE COURT: I believe so. That is a non-issue.
25 That is, an inference, as I see it, he said one could

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2 draw it. He has resolved that issue.

3 What is the other issue?

4 MR. SANTANGELO: Let me get back to one for
5 one second.

6 THE COURT: I am not saying I draw it. I said
7 one could draw it.

8 MR. SANTANGELO: I just wanted that clear.

9 THE COURT: He resolved that issue.

10 MR. SANTANGELO: With regard to information in
11 the Probation Report, where the Probation Officer
12 indicated that Albano failed to report certain income
13 regarding the sale of his home, we have explained that
14 in our motion and appeneded letters from Albano's
15 accountant and his tax lawyer as to the reasons why.
16 I specifically put that in there because I think it
17 demonstrated perhaps what the Probation Officer felt
18 was a lack of candor, and I wanted to bring to the
19 attention of the Court the reasons why the sale was
20 omitted from his tax return.

21 THE COURT: I read all of that. I assume the
22 U.S. Attorney will accept that by way of explanation.

23 MR. PUCCIO: I had a question about the
24 explanation. The letters seem to be inconsistent
25 when I read them.

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2 THE COURT: It may well be but it is an offer
3 as to the nonwilfulness of that item.

4 MR. PUCCIO: It is not an important item in
5 this case.

6 THE COURT: I agree. It just goes to the
7 question of whether that was wilfully or not wilfully
8 omitted. I am going to accept that it was not a
9 wilful item.

10 MR. SANTANGELO: With regard to, Your Honor,
11 the Probation Report in stating that Albano did not
12 include assets which he enumerates as tuitions of
13 his children, future pension funds, and the salary of
14 his brother Edward from the corporate business, I
15 attempted to explain that.

16 THE COURT: That was in his net worth statement
17 that he gave to whom?

18 MR. SANTANGELO: Excuse me.

19 THE COURT: I forget where he failed to include
20 that.

21 MR. SANTANGELO: He gave a financial statement
22 to the Probation Officer.

23 THE COURT: He failed to include that he already
24 prepaid tuition payments and what have you?

25 MR. SANTANGELO: That is correct. I do not

1
2 think it was prepaid.

3 THE COURT: Only that way would it be an asset.

4 MR. SANTANGELO: Again, it is on the issue of
5 wilfulness and lack of candor with the officer.

6 THE COURT: I would not put it down as an
7 asset. I think that is really farfetched unless
8 you are on some sort of an accrual basis.

9 MR. PUCCIO: Again, that item is not at the
10 heart of this case.

11 THE COURT: I would not think that it was
12 very material.

13 MR. SANTANGELO: Apart from that, Your Honor,
14 I would only wish to put on the record at this time
15 what I did convey to Judge Mishler's clerk by phone
16 and which I did convey to Judge Weinstein the last
17 time; that I had objected, Your Honor, to the placing
18 in the wheel of judges Your Honor and Judge Mishler
19 included, without casting any aspersions on Your Honor's
20 fairness. I felt the aspects of the Probation Report
21 which were contested and which were found to be
22 incredible should have been stricken and, failing that,
23 if a judge had sat on a panel which had read this
24 Probation Report, that since a judge on the panel
25 makes a recommendation as to sentence, that he should

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2 not sit on the sentencing after Judge Weinstein had
3 found this allegation to be incredible.

4 I made that objection to Judge Weinstein and
5 I asked Judge Mishler's clerk to remove from the
6 wheel your name and Judge Mishler's name, which Judge
7 Mishler obviously did not agree with because your
8 name was pulled out of the wheel.

9 Merely for the purposes of the record, Your
10 Honor, I wish to state my objection to the fact that
11 a judge who was on the panel was put in the wheel,
12 has viewed the Probation Report, has obviously at
13 that particular time prior to any hearings made up in
14 his mind on a recommendation which I feel, Your Honor,
15 would taint any resultant sentence regardless of what
16 happens from here on in.

17 I wish to make that objection on the record
18 and support that by, I think, two cases which are not
19 exactly in our point but I think the intention of
20 which supports our position; United States against
21 Robins and United States against Rosner, where after
22 sentencing, the Defendant appealed based upon incorrect
23 information in the Probation Reports, and the Second
24 Circuit remanded the case back down to the District
25 Court and ordered that another judge hear the

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2 resentencing rather than the original judge because
3 the original judge had read the report with the
4 incorrect information in it.

5 So I place that on the record, Your Honor, with
6 regard to my objection to Your Honor's having viewed
7 the Probation Report, recommended a sentence, having
8 sat on the panel and is sitting here sentencing the
9 Defendant. I just wanted to make it clear for the
10 record because of the fact I was not able to do it
11 before Judge Mishler.

12 THE COURT: I understand but I fail to see the
13 substance of the motion. To begin with, you should
14 understand that by virtue of the panel system that
15 we have, we are called upon to read when we sit on
16 a panel approximately 20 to 25 pre-sentence reports
17 per week. We sit for a month at a time. That averages
18 out to about 100 reports or more a month, and if you
19 think for one minute that I carry in my head one
20 report as against the other in the sentence panel
21 meeting on the Tuesday following the Saturday and
22 Sunday when I read the reports, you have a higher
23 estimation of my retentive powers than is warranted
24 because there is no way that I could possibly remember
25 anything about this case two or three months down the

road which we are at now.

I do not even remember when I read it and I do not remember which panel I was on. I do not even remember what month that was. So that when I got this from Judge Weinstein, it was just like starting from all over again.

MR. SANTANGELO: I make the motion with caution.

THE COURT: If the Court of Appeals thinks otherwise, they maybe should come down here and sit on a sentence panel and see what it is like because it is like reading a novel every weekend. Each reports runs about 20 to 25 pages. So you are reading 450 or 500-page novel every week during the time you are on the panel. Maybe there are some people in this world who could have that rententive power but I do not, I will be frank to admit on the record, under oath or otherwise.

MR. SANTANGELO: I think there is one more issue.

THE COURT: My mind would be no different on this case as any other case case. So that part of your motion must be denied.

MR. SANTANGELO: At Page 22 of the Probation Report, it was alleged --

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2 THE COURT: I should add also, counsel, that
3 in addition to that, of course as I have already
4 indicated, I have scrapped from my mind not only the
5 allegation with respect to narcotics but the various
6 other things as to which you have an objection, with
7 a possible exception of the question of what inference
8 may be drawn with respect to where the moneies came
9 from. I have not drawn any inference but various
10 inferences come to mind, anybody's mind, and I have
11 not attempted to draw any inference.

12 MR. SANTANGELO: As long as I am given an
13 opportunity to aid you to draw the inference, I would
14 be satisfied with regard to that issue anyway.

15 There is one further thing which may or may
16 not be important to the Government. At Page 6 of
17 my motion I state that at Page 22 of the Probation
18 Report it was alleged the Assistant District Attorney
19 in charge of a grand jury investigation of the
20 Defendant's shooting back in 1969 while he as a
21 police officer wanted or desired to seek a contempt
22 or perjury indictment against him. I attempted to
23 explain part of that.

24 One of the issues was that Albano had refused
25 to go into the Grand Jury Room because his attorneys

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2 were not there at that time and there was a big
3 brouhaha about it. I did not add other reasons why
4 there might have been that attitude which may have
5 prompted the District Attorney to do this but I
6 think after the hearing before Judge Weinstein, I
7 finally realized in my mind what was in the District
8 Attorney's mind in 1969.

9 In 1969, the witness who had testified before
10 Judge Weinstein had made an allegation against Albano
11 with regard to narcotics sales. Obviously, the
12 District Attorney knew it. The Police Department
13 knew about the allegation. Albano never knew about
14 it and from the date of the shooting, the guns in
15 effect were turned on him and he felt that way and
16 he had a very bitter attitude at that time as to
17 he was being treated in such a manner after being
18 shot .

19 This allegation did not surface until January
20 31 of 1977. The allegation has not been shown to be
21 incredible but I think that, in part, explains the
22 attitude of the Defendant during the period of time
23 in 1969 after his shooting with regard to the Bronx
24 District Attorney's investigation of him.

25 I wanted to put that on the record because it

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2 only came to my mind after the allegation of narcotics
3 involvement was made and when I found out that it had
4 been made. When I drafted my affirmation on January
5 31 or prior to January 31, I had no idea that an
6 allegation such as that had been made although Mr.
7 Puccio had referred to some vague allegations. But
8 at that particular time, we finally realized what was
9 happening in 1969 and if that is an issue with regard
10 to this Defendant, his conduct and his actions in
11 1969 in respect of that Grand Jury investigation, I
12 would proffer that as an explanation.

13 THE COURT: The original charge here which I
14 am concerned with is the income tax evasion charge.

15 MR. SANTANGELO: I was faced with a Probation
16 Report which I felt brought in for the most part
17 mostly irrelevant and highly prejudicial, inflammatory
18 kinds of material and I tried to deal with it and
19 I dealt with it as best I could. With that, I will
20 leave that issue if you feel it is irrelevant.

21 THE COURT: All parts of a person's background
22 and what have you are put into the Probation Report
23 but we judges do not read these things, something
24 somebody says about somebody else or what have you --
25 even when we let hearsay testimony go in at the trial,

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1 we discount hearsay testimony. We understand what
2 hearsay testimony is in a nonjury case. We are
3 supposed to know how to handle it and, as a
4 practical matter, I think we do. I certainly also
5 assumed I knew what I was doing.
6

7 MR. SANTANGELO: I find it most difficult to
8 approach sentencing after a plea of guilty because
9 Your Honor has not had benefit of a trial and seeing
10 evidence.

11 THE COURT: Maybe you ought to have a trial.

12 MR. SANTANGELO: I do not want a trial because
13 the man is guilty. He pleaded guilty and there is
14 no reason to do otherwise.

15 THE COURT: I always feel when a defendant
16 comes in here and picks away at the Probation Report,
17 the best thing to do is let him withdraw the plea
18 and I will hear all of the evidence and I will make
19 a real sentence. The more fuss you make, the more
20 you are going to get people to look into things.

21 MR. SANTANGELO: I will cease and desist at
22 this point.

23 THE COURT: I won't tell you how to run your
24 case.

25 MR. SANTANGELO: I am talking about evidence

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2 that has nothing to do with the income tax issue.

3 THE COURT: When I read these Probation Reports,
4 I am concerned principally with the man's violations
5 in this particular case, any related violations, any
6 criminal record he has and what kind of an employment
7 record and this kind of business is what I am concerned
8 with. What acquittals he has had and what rows he
9 has had with the District Attorney that may or may not
10 be substantiated, that does not enter into it.

11 I do not think it entered into Judge Weinstein's
12 thinking. I doubt whether it did. I do not know what
13 he thought because I have not discussed this with him
14 apart from on the sentence panel. If you asked me
15 what was said at that sentence panel, there is no
16 way I could recall.

17 I will do anything you want. If you want a
18 hearing on any one of these items, you can have it.

19 MR. SANTANGELO: As to each of them, I believe
20 I can cover them by way of explanation in terms of
21 addressing the Court.

22 THE COURT: You have covered them, I think.
23 Is there anything else?

24 MR. SANTANGELO: I do not believe so.

25 THE COURT: Do you want additional time to

submit something to me?

MR. SANTANGELO: I do not believe I have to really submit anything written to you.

THE COURT: Do you want an additional panel to reconsider this?

MR. SANTANGELO: I would. That I would.

THE COURT: You would want a new panel of judges to reconsider this?

MR. SANTANGELO: But, Your Honor, there is a problem with that. There is a caveat. If they read the old Probation Report --

THE COURT: I will ask the Department to edit it in accordance with our discussions today. Who is here from Probation?

MR. PUCCIO: The Probation Officer is across the hall in this case.

THE COURT: Are you here from Probation?

A PROBATION OFFICER: Yes.

THE COURT: Order a copy of this record and whoever wrote this report will edit the report and get revised copies to me and to the two judges sitting this month on the panel, who I think are Judge Bramwell and Judge Constantino, and put it on for the panel session of March 29.

We will have the sentencing on April 1.

MR. SANTANGELO: Thank you very much.

MR. PUCCIO: Your Honor, could we have the sentencing a day before?

THE COURT: You can have it on March 31st at 9:30.

MR. PUCCIO: That would be better for me. At what time?

THE COURT: Put this record on an expedited basis. At 9:30 A.M.

MR. SANTANGELO: May I view the edited Probation Report prior to sentence?

THE COURT: Of course.

* * *

Brooklyn, New York 11201

March 30, 1977

Honorable Thomas C. Platt
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Vincent Albano
Criminal Docket No. 76-CR-481

Dear Judge Platt:

I am writing to highlight certain aspects of the above captioned case which I believe should be considered by Your Honor at the time of sentence.

By way of background, Albano became a subject of investigation during a wide ranging police corruption inquiry conducted by the United States Attorney's Office, the New York City Police Department, the Drug Enforcement Administration and the Internal Revenue Service. One of the aspects of this inquiry concerned the distribution of approximately 400 pounds of narcotics evidence stolen from the New York City Police Department Property Clerk's Office; however, the investigation was in no way confined to this matter and included other illegal activities on the part of present and former narcotics detectives. The prosecutions that were developed during this inquiry included, among others, the following: United States v. Pasquale Intrieri, 75-CR-690 (a former Police Lieutenant convicted of income tax violations and sentenced by Judge Judd to five years); United States v. Donald Hayward, 75-CR-687 (a former narcotics detective convicted of narcotics violations and sentenced by Your Honor to seven years); United States v. John McLean, Ramon Viera and Edward Codelia, 74-CR-729 (former narcotics detectives convicted of civil rights violations and sentenced by Judge Weinstein to nine year terms, subsequently reduced because of their cooperation with the Government); United States v. Francis E. King, 76-CR-482 (a former narcotics detective convicted of income tax violations and due to be sentenced by Judge Weinstein on April 1, 1977).

I + N.A. - 6 years -
15 years ago
228A

March 30, 1977

The case against Albano developed by the Internal Revenue Service and the grand jury revealed over \$200,000.00 in unreported, unexplained income for the most part concealed by the use of close relatives as nominees and "laundered" through small family-owned corporations located on the lower east side of Manhattan. The pre-sentence report prepared on this matter is based upon records of the grand jury and information furnished by the Internal Revenue Service Intelligence Division.

As Your Honor is well aware, an expenditures investigation conducted by the Internal Revenue Service (as was conducted in this case) is, simply stated, an attempt to determine unreported income by comparing income reported to the amount of money spent during a given year with allowances made for expenditures based on non-taxable sources. In any such investigation it is quite common for a subject to attempt to explain cash expenditures which appear to be beyond his means by a claim that the source of the expenditures consisted of gifts, inheritances, prior cash accumulations and other non-taxable receipts. Oftentimes the unexplained wealth of the subject is attributed to the largesse of a conveniently deceased relation. (e.g. United States v. Intrieri, supra) This case is no exception.

Much of the unreported income of the defendant Albano consisted of large cash deposits to family-owned corporations. Several of the defendant's relatives, who were officers in these corporations, were called before the grand jury and testified that the defendant was not the source of the cash. The defendant's mother, for example, testified that she and her deceased husband had accumulated in excess of \$30,000 in cash over a period of years and maintained this cash hoard under their bedroom mattress. Investigation by the Internal Revenue Service revealed the defendant's mother and father clearly did not have the means to accumulate such a large cash sum. Evidence which tended to negate the cash hoard included prior tax returns of the defendant's parents which indicated a low taxable income and the existence of bank accounts which presumably indicated that the savings of the defendant's parents were deposited for the purpose of collecting interest.

✓ Father's work

March 30, 1977

The defendant's brother, an officer in one of the family-owned liquor stores, testified that large cash deposits to this corporation were incorrectly reflected on the books and records of the corporation as loans from shareholders when they should have been recorded as receipts from bulk sales of liquor not made in the ordinary course of business (receipts resulting from large sales of liquor to after-hours clubs which presumably operated in the neighborhood).

By the indictment in this case, the grand jury found probable cause to believe that the cash expenditures uncovered during the investigation were attributable to the defendant as income. In order to have arrived at this conclusion, the grand jury had to find that the explanations of Albano's relatives were not worthy of belief. Although the defendant indicates in his motion papers that "very early in the proceedings, he offered to plead guilty", it is a fact that serious plea negotiations occurred only after it was clear that the testimony of the defendant's relatives did not stand up in the grand jury. Furthermore, it was part of the defendant's plea understanding with the Government that in the event that he pleaded guilty to three felony counts, his brother would not be prosecuted for perjury.

Of great significance herein is the sentence received in this Court by the defendant Pasquale Intrieri who is referred to earlier in this letter. Intrieri and defendant Albano worked together as narcotics detectives in the New York City Police Department and remained close associates after leaving public service. An expenditure method of investigation by the Internal Revenue Service and the grand jury was also employed in the Intrieri case. This investigation also revealed a large amount of unreported income which totalled approximately \$100,000.00. Here, too, the unreported income was attributed by the defendant to the generosity of deceased relations who allegedly had hoarded the money in cash over a number of years. Here, too, the non-taxable source was negated by overwhelming evidence that the specified deceased relations were not in a position to give the defendant the amount that he had claimed they had given him. Most importantly, in the Intrieri case, the Government was not able to establish an illegal source of the defendant's unexplained wealth, but it was clearly a case where both the trial jury and the sentencing judge relied heavily on the inferences which by necessity must be drawn in the case of a public official whose substantial wealth can not be attributed to a legal source.

Intrieri a cop

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Honorable Thomas C. Platt

- 4 -

March 30, 1977

I bring the above to Your Honor's attention to raise a critical distinction between the defendant convicted of tax evasion whose violation of the law consists of not reporting legitimate income (through whatever scheme or artifice) and a case such as the one herein where the defendant, a former public official, failed to report a large fortune for which he cannot give a credible accounting.

Very truly yours,

THOMAS P. PUCCIO
Attorney-in-Charge

TPP:lag

cc: George Santangelo, Esq.
253 Broadway
New York, New York 10007

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S.A.	:	CRIMINAL CAUSE
-against-	:	FOR SENTENCING
VINCENT ALBANO,	:	76-CR-481
Defendant	:	

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United States Courthouse
Brooklyn, New York

March 31, 1977
Time: 9:30 A.M.

Before:

HONORABLE THOMAS C. PLATT, U.S.D.J.

PAUL KLIMASZEWSKI
ACTING OFFICIAL COURT REPORTER

1 A P P E A R A N C E S :

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3 D. G. TRAGER, U. S. Attorney
4 for U.S.A.

5 By: T.P. PUCCIO, ESQ.

6 GEORGE SANTANGELO, ESQ.

7 for Defendant, Vincent Albano
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M O R N I N G S E S S I O N

THE CLERK: Criminal Cause for Sentence, the
United States versus Vincent Albano.

MR. PUCCIO: Good morning, your Honor.

THE COURT: Good morning.

Is there any reason why we shouldn't proceed with
sentencing?

MR. SANTANGELO: No, your Honor.

THE COURT: Mr. Albano, is there any legal reason
why we shouldn't proceed with sentencing?

MR. ALBANO: No, your Honor.

THE COURT: Do you wish to say something, Counsel?

MR. SANTANGELO: Yes, your Honor.

Your Honor, I have just this morning been delivered a
letter by hand dated March 30, 1977 from -- addressed
to the Court from Mr. Puccio and I would like to address
myself officially to the contents of that letter since
it obviously contains the Government's position with
regard to sentencing in this matter.

The first thing I'd like to say, your Honor, is
that I'm thoroughly distressed at Mr. Puccio and the
Government has chosen to bring up again by this letter
what I believe was rejected by Judge Weinstein. In fact,
on January 31, 1977, Mr. Puccio indicated to Judge
Weinstein that the reason Mr. Albano was investigated

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1 was because while he was a member of the Police
2 Department, there was allegation of his dealings in
3 narcotics, and that's from Page 10 of the record. That
4 went to a hearing, as your Honor knows, and Mr. Puccio
5 and the Government produced a totally incredible witness
6 who in effect perjured himself for three days on the
7 stand. Mr. Puccio continued that day by attempting to
8 link Mr. Albano with Mr. Intriarri who Mr. Puccio has
9 previously prosecuted, and Judge Weinstein in answer
10 to Mr. Puccio's attempt to associate the two, said it's
11 just that kind of a suspicion, I don't think it's enough,
12 that's on Page 12 of the record.

13 Now I find that this letter of March 30 has the
14 wrong defendant on trial. We have quotes about
15 United States against Intriarri which involves the case,
16 as I understand it, of a New York City policeman who
17 was found with a hundred thousand dollars in his bank
18 account while he was a member. We have citation of cases,
19 policemen being convicted of narcotic offenses, of being
20 convicted of civil rights violations which have
21 absolutely no bearing in this case. We had a probation
22 report which basically incorporated what Mr. Puccio put
23 in his letter of March 30, 1977 which is basically pure
24 unadulterated speculation. This is no way, there is no
25 credible evidence whatsoever presented by the Government

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1 which indicates in any way that any of this monies, from
2 1970 through 1974, was acquired by this defendant by any
3 corrupt or illegal means.

4 Mr. Puccio in his letter quotes or doesn't quote,
5 paraphrases what he says as testimony in the Grand Jury
6 of Mr. Albano's mother, when she stated she kept thirty
7 thousand dollars in cash hoard that just doesn't happen
8 to be the case. As I recall it, she testified that
9 they saved thirty thousand dollars over a period of
10 years and that money, thirty thousand dollars, was
11 in the bank and in answer to a question by Mr. Puccio,
12 "how did you save" she said, "I saved it in little bits,
13 three, four hundreded dollars apiece in my mattress and
14 then I put it in the bank". That's a far different
15 statement then putting thirty thousand dollars in the
16 mattress. We never, ever, ever claimed a thirty thousand
17 dollar mattress cash hoard regardless of what Mr. Puccio
18 says as controlling Grand Jury minutes show. Now, I
19 wasn't in the Grand Jury, I know what this witness said
20 to me, whether Mr. Puccio got it out of her or not or
21 what words he put in her mouth, I don't know. I thought
22 that after your Honor rightfully edited the Probation
23 Report, that we would continue the sentencing on the
24 basis of fact and not speculation. And the facts are,
25 your Honor, that Mr. Albano since 1970 has not been a

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member of the Police Department. The facts are that the Government claims that over a period of four years or five years, excuse me, '70 through 1974, over a period of four years, that he accumulated 194 thousand dollars attributed to him.

From the very beginning, your Honor, there was no doubt in my mind that Albano was guilty of a tax violation or tax violations. But that was never the issue really when this investigation started. This investigation started, as Mr. Puccio correctly says, because there was an anonymous report and allegation of Albano dealing in narcotics and that's how the investigation was presented to me when I first represented Mr. Albano back in 1975 and it progressed not only to that but to allegations on the record in open Court by Mr. Puccio and the Government, that Mr. Albano was a suspect, quote, unquote, in the theft of heroin from the Police Property Clerk's Office and that's why this dragged on for two and a half years, tooth and nail, a fight between the defendant and the Government. Because that was basically untrue, there was no evidence to support it, there was no evidence to support he had dealt in narcotics, there was no evidence to support he was a corrupt Police Officer. All there was, was surmise and speculation based on what. It was based, as

1 Mr. Puccio stated, on the fact that he could not
2 understand nor can the Internal Revenue Services
3 understand that in five years, 194 thousand dollars in
4 unreported income could be gained by him.

5 First overall, let me say this, the figure of
6 194 thousand dollars is indispute and in serious dispute.
7 We absolutely refused to even consider a plea to the
8 years 1970 and 1971. Mr. Albano pleaded to 1972, 73
9 and 74 and what I, I believe to be a detailed explanation
10 of what he feels to be his tax liability, he comes out
11 with a figure of not more than 53 thousand dollars that
12 he can see from the figures that was unreported income
13 that should have been reported, as opposed to the figure
14 of a 150 thousand dollars given by the Government. Now
15 the Government by a Grand Jury investigation, which is
16 a one-way street, as your Honor knows, and crediting to
17 Mr. Albano certain expenditures which for all intentional
18 purposes if there were a trial they could never prove,
19 comes up with the figure. And I'll give you one very
20 simple example of that kind of a figure. Mr. Albano's
21 brother bought a liquor store sometime in 1969, 1967 or
22 '68, one of those years. He made an application to buy
23 that liquor store and he made an application to the
24 State Liquor Authority, he and his brother-in-law did.
25 And every single dollar of that monies that went to

1 purchase that liquor store were detailed, sworn to,
2 supported by bank books, not bank books where there was
3 a 10 thousand dollar drop in the bank, but bank books
4 which showed a series of deposits over five, ten,
5 fifteen years, yet, because Mr. Albano in 1972, after
6 his father's death, came to control the family properties
7 or business on a daily basis, the Grand Jury obviously
8 came to the conclusion that since he had the control.
9 he was the owner.

10 So that 50 or 90 some odd thosand dollars in what
11 the Government called, corporate investments, are
12 credited to Mr. Albano as expenditures. We vigorously
13 object to this today and from the very beginning deny
14 his expenditures. Now if there were a situation now,
15 were we were at the beginning of the road and the
16 efendant was pleading not guilty, we could go through
17 that and bring in witnesses and documents, etc. and do
18 that, but we couldn't do it. What we could is dispute it
19 your Honor.

20 THE COURT: You can do it, if you want.

21 MR. SANTANGELO: I said from the beginning, your
22 Honor, that part of the reason that Mr. Albano pleaded
23 guilty is that this two year investigation has been a
24 serious and terrible drain financially and emotionally
25 upon him and upon his family. And I will not subject

1 his family to what I consider to be an arbitrary and
2 capricious prosecution in this particular case. It's
3 not arbitrary and capricious because the man is not
4 guilty of the tax violation, but it's arbitrary and it's
5 capricious because he's not guilty of the smear of the
6 broad paintbrush that the Government is using here to
7 say that he is in essence a corrupt individual. He is
8 not a corrupt individual, your Honor, there is not one
9 scintilla of evidence in this record, Grand Jury or
10 otherwise, which would indicate he's a corrupt
11 individual. Far from it, your Honor, his life, his
12 work, his employment, the risks he took, what he suffered

13 because of anonymous perjurious allegations made
14 against him in 1969, by one Clifford Wright, about
15 narcotic dealings which only came to the fore in 1977,
16 have put so much pressure on this man and subjected him
17 to such Governmental intrusion, such Governmental
18 scrutiny, that he has suffered enough.

19 In 1969, your Honor, Mr. Albano was shot six times
20 in the chest, and after that there was an investigation.
21 The investigation, for a reason which he could not
22 completely comprehend, turned on him. I can comprehend
23 it now, because three months prior to that shooting,
24 this anonymous allegation had been made against him that
25 he had dealt in narcotics and whether it was reasonable

or not, the Police Department and the District Attorney's office turned an investigation on him and on his family, without ever telling him about this allegation. And he went through that investigation and they went through his finances in 1969 and 1970 and they went through his family finances, his father and his wife, and everybody around him testified in Grand Juries and the Police Department hearings yet, never, never, never, never was the allegation ever put out on the table. Instead, he was charged with working in his father's liquor store when he was supposed to be in his house because he was on disability, he wasn't supposed to leave his house because the surgeon hadn't let him. So he went to his father's liquor store to help him, as he always did and continued to do, they filed charges against him. 1969 comes and goes. 1970 comes and he tries to retire, and the City tries to prevent it, not by saying Mr. Albano dealt in narcotics, but bring more spurious charges and, your Honor knows, and I presented to you the Court decision that indicated there was no hearings on the charges, there were never any hearings on the charges and the Court, rightfully so, let him retire on a disability pension and he didn't retire in order to avoid hearings, he retired because he was sick of it, he couldn't understand.

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1 Now we get to 1975 and it crops up again, crops
2 up again in the person of Mr. Puccio who tells me Mr.
3 Albano is suspected of narcotics violation and we go
4 through a two year Grand Jury investigation, with my
5 only purpose not to acquit him of tax violation but in
6 some way or manner to indicate to that Grand Jury that
7 Mr. Albano is not guilty of narcotics violation or any
8 corruption and that was a fact the Grand Jury found,
9 no corruption. Well, you can bet your bottom dollar
10 Mr. Puccio would have gotten an indictment for it whether
11 this be that much a scintilla of evidence with regard
12 to it, he would have gotten the indictment for it.
13 Then we fight the Probation Report and finally Clifford
14 Wright, that perjurious witness comes to the stand and
15 we have to listen to it and Mr. Albano's family is
16 listening to it. And Mr. Albano's family is reading
17 about it in the newspapers, about the allegation of
18 police corruption in narcotic dealings, with no evidence
19 so far. And finally the evidence comes forward,
20 supported, developed by Mr. Puccio and the Government
21 and Judge Weinstein called it incredible. I happened
22 to call it perjurious. I think there are good reasons,
23 your Honor, in this particular case that leniency and
24 justice require that Mr. Albano be allowed to return
25 to society, attempt to gain some self respect after he

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1 pleaded guilty to three felonies, attempt to continue
2 to support his family as he always has done, and attempt
3 to begin a new life for himself because his life since
4 1969, since the day the allegations were made against
5 him about corruption has never been the same. He has
6 lived with this spectre and he has finally gotten it off
7 his back and only got it off his back by having it
8 surface in the Courtroom under the cold light of day,
9 and in the crucible, as they say, of cross examination.

10 Now, what was the effect of the investigation
11 and the publicity and the plea upon Albano and his
12 family. As I said, there was a one-and-a-half to two
13 year investigation. He and his family are emotionally
14 and financially drained, your Honor. There are eight
15 corporations, they're family corporations, it's not a
16 conglomerate, it's not a big business, a liquor store,
17 two laundromats, a couple of real estate corporations
18 and who owns them, Mr. Albano owns some of them and his
19 mother owns others. He manages most of them, in fact,
20 all of them. If Mr. Albano is incarcerated for any
21 longer period of time or any period of time, he wouldn't
22 suffer alone, more will suffer, the children will suffer,
23 his mother-in-law whom he supports and has in his home
24 and has had for ten years will suffer. They depend on
25 him. He faces severe penalties, your Honor, civil,

1 he's pleaded to tax evasion and he's pleaded to filing
2 false statements that carries with it a presumption in
3 a civil case of fraud and he will pay fraud penalties.
4 And his brother has suffered monetarily because when
5 this investigation began, your Honor, Mr. Puccio wrote
6 a letter to the State Liquor Authority in the midst of
7 an attempt by Mr. Albano's brother to sell his liquor
8 store for 20 thousand dollars, Mr. Puccio said, to the
9 State Liquor Authority that a principal of that liquor
10 store, without identifying him, was under investigation.

11 Now, Mr. Puccio met Mr. Vincent Albano and he said
12 he was right because he contends Mr. Vincent Albano was
13 a principal of the liquor store. But it was a little
14 move, your Honor, which did its job, stopped the sale,
15 the liquor store went out of business and his brother
16 lost between 20 thousand dollars, that's the effect
17 that this investigation has had on Mr. Albano. He also
18 faces loss of his liquor license from the State Liquor
19 Authority because he has pleaded guilty to three
20 felonies in this Court and the publicity, your Honor,
21 which I detailed, which came only from the United States
22 Attorney's office and what he said in Court which
23 depicted Mr. Albano as a corrupt cop, without any
24 evidence of it. The publicity can never, ever be with-
25 drawn, his children, his wife, his family, his mother

and mother-in-law, he has to face that forever. No one else in his family, your Honor, can keep intact what remains of a lifetime of work by Micheal Albano, Mr. Albano's father and his mother. His mother worked for 35 or 40 years in a cafeteria, his father worked all his life in his own business, never worked for anybody in his life. Worked in the ice and coal business, worked in the oil business, ran a bar, bought real estate, bought a liquor store, made something of himself. And to come here as the Government does and say to me, and say to you and say to Mr. Albano, that his father and mother after fifty years had nothing, and what they had was real estate they invested in, what liquor stores they bought, were bought by corrupt means, furnished by Vincent Albano, is to me obscene, because it takes a life of a man and it makes a mockery out of it.

Like Michael Albano, he delivered ice up and down the stairs in the lower Eastside. He delivered oil, he delivered coal. He had a bar, he went into the liquor store business. He bought real estate and in 1972, he died quite suddenly. He got sick in February, 1972 and Vincent Albano, his oldest son to whom he had given more than he gave his other children because he was his oldest son, and Vincent Albano who had lost, in

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1 effect his profession because of the fact that he had
2 been shot six times, Vincent Albano was given the burden
3 of running what his father had run and taking care of
4 his father's family and his family. And he did. Other
5 reasons exist, your Honor, for not being harsh on Albano
6 in this case.

7 When you look at how he lives, and whether he
8 really profited outlandishly, lavishly from his crime,
9 you realize that he didn't. He has no grand lifestyle
10 as the Probation Report indicates. He lives in a
11 middle income neighborhood, he has a dock, it's near
12 the water, he helps his immediate families with monies.
13 His son and daughter go to a private school, he
14 supported his mother-in-law, she has lived with him.
15 He ran his brother-in-law's business, his mother's
16 business, his own. And an incarceration here, Judge,
17 in my mind, wouldn't compare with the lenient sentences
18 which have been given to others in other cases in this
19 Courthouse and other Courthouses where millions have
20 been stolen not from the Government, but from other
21 people, and people have been prosecuted for tax evasion.
22 Bernard Bergman stole from others, created misery,
23 Eugene Hollander stole from others and created misery.
24 Matanew Troy embezzled, stole and pleaded guilty. He
25 was treated leniently. Lawyers, former associates of

1 Vice President Agnew, many, many people who have done
2 much worse than Albano here have been treated leniently
3 in terms of incarceration and their underlying crime
4 has been theft and embezzlement, not merely tax evasion.
5 Albano's life, your Honor, as is detailed in the
6 Probation Report, indicates a continuous record of
7 gainful legal employment since he was at least eighteen
8 years of age and in fact, Albano indicated to me since
9 he was twelve years of age. He was a Korean War Veteran,
10 he served in combat, he served two years, he won three
11 bronze stars, he won other decorations in Korea, he
12 was an undercover police officer, risking his life.
13 He had decorations for bravery and exceptional duties
14 while on the police force. He suffered physical
15 disability by taking six shots, 38 caliber bullets in
16 his lung. He lost his career, and was thrown to the
17 running of his family enterprise. He did the best he
18 could.

19 And the testimony, your Honor, to Albano's life
20 comes not from me, but it comes from the many letters
21 that have been sent to this Court and they have been
22 sent by a variety of people. They have been sent by
23 a former District Attorney with whom he worked, Jack
24 Ezerof, Larry Hockhirsch, Larry Cohen, defendant's
25 attorney, Gustave Newman, by the President of the

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1 LaSalle Military Academy where his son goes, by his
2 family doctor, Dr. Horwitz, by Father Sheridan, the
3 Pastor, by John Scala, the President of the Bricklayers
4 Union, by Ralph Serpico, Albano's immediate Supervisor
5 during the last four years of his Police Department
6 duties and by Senator John Clando, and what do these
7 people say. District Attorney called him a conscientious,
8 hard working person who demonstrated to them exemplary
9 conduct and that he engaged in productive enterprise.

10 The President of the LaSalle Military Academy, a
11 Father Binnillis, said he knew him as a giver. Dr.
12 Horwitz said he's devoted to his family. Father
13 Sheridan, the Pastor, and usually, your Honor, a kind
14 of thing as the letter from the Pastor is somewhat
15 irrelevant because Pastors usually don't have too much
16 bad to say about people, but in this particular case,
17 Father Sheridan didn't mince any words, he said, "make
18 him pay" and he meant, make him pay money, but
19 incarceration would work a severe injustice upon his
20 wife. John Scala, the President of the Bricklayers
21 Union, said that the death of his father placed a heavy
22 burden on Vincent Albano, and it did. Senator John
23 Clando called him competent and trustworthy and Ralph
24 Serpico, Albano's immediate Supervisor during his last
25 four years detailed to this Court that Albano worked as

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1 an undercover officer, took risks others would not take,
2 worked for long hours away from his family and called
3 him an honorable hardworking, trustworthy man with
4 integrity.

5 Your Honor, both Vincent Albano and I come from
6 the same neck of the woods. We come from the same
7 neighborhood and I can testify to the way this man
8 and his family worked and worked all their lives. I
9 can testify to ice being delivered by my apartment by
10 the Albanos, be it his brother, him or his father.
11 I can testify to the coal being delivered to my
12 building, I can testify to years and years of, as far
13 back as I can remember and my family can remember, that
14 the Albano family working hard, living frugally and
15 doing the best that they knew how.

16 There's one thing missing from the Probation
17 Report and from what I said this morning, which I
18 think is my fault, and I was troubled by it. And the
19 Probation Officer indicates that they really didn't
20 get a feel of why Albano committed this crime and to be
21 perfectly candid, I never got a feel for it and I never
22 got a feel for it until after Clifford Wright testified
23 against Albano with regard to the allegations of
24 narcotics. And I wonder whether Albano really knows it;
25 I think in part it's due to the fact that he was put into

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1 a situation that he had never been in before, he had
2 been a public servant all his life. He had collected
3 his paycheck and he has taxes taken out. He was not
4 running a cash business and whether or not he actually
5 intended with malice or forethought, so to speak, to
6 take money and secrete it and not pay taxes on it, I
7 don't think it's 100 percent correct.

8 THE COURT: If not beyond a reasonable doubt, he
9 should not have pleaded guilty.

10 MR. SANTANGELO: I think it is beyond a reasonable
11 doubt, your Honor, but I'm trying to get more to motive
12 than a question to intent, but I think after 1969
13 when Albano, I believe, correctly felt himself to be
14 unjustly accused of something he didn't know of, this
15 anonymous piece of paper in his Police Department file
16 about narcotics violations, I think he said to himself,
17 well, somebody owes me something and that's why I
18 really think he did it. I think he was placed in a
19 position that he had never been in before, that he felt
20 that he comes out of a shooting where he was given up
21 for dead twice, and that he has one life to live, he
22 had almost been resurrected and he said, let me enjoy
23 what I can. I have been prosecuted or persecuted enough,
24 I think that's what went through his mind and I think
25 it's reasonable, your Honor, and I think it's reasonable

1 for you, in this Court, to look at the past 8 years of
2 Albano's life and conclude they have been a misery.
3 His family has been hounded by these persistent
4 allegations, and finally, they have come to the fore
5 and we finally disposed of them. I think Albano has
6 a new life to start again. I think it's necessary that
7 he be allowed to live that life and support his family,
8 and not let what 50 years of hard work built up go
9 down the drain because of what I think is baseless
10 speculation.

11 Thank you, your Honor.

12 THE COURT: Mr. Albano, do you want to say something?

13 MR. ALBANO: No, sir.

14 THE COURT: Mr. Puccio, do you wish to say
15 something?

16 MR. PUCCIO: Yes, your Honor, I'll be brief. I
17 do have a few observations to make in connection with
18 Mr. Santangelo's remarks. I did put what I thought
19 were the central issues, this sentence in writing and
20 submitted it to the Court. I just might suggest to the
21 Court it's somewhat curious that there is arbitrary and
22 capricious investigation which Mr. Santangelo makes
23 reference to, resulted in the uncovering by the I.R.S.
24 and the Grand Jury of over 200 thousand dollars in
25 unreported income.

23 ✓

1 Now, your Honor, I'm sure is aware that no
2 investigation is likely to surface every nickel of
3 unreported income and when you reach a point where you
4 have by conservative estimate, since there's no cost
5 of living expenses included in that figure, when you
6 reach a point where you've uncovered a couple of
7 hundred thousand dollars, it seems to me you are not
8 doing your job too well if you continue, you might as
9 well just stop and write up a case. This charge, by
10 the way, was made from the very outset by Mr.
11 Santangelo. He wrote a letter to the Commissioner of
12 Internal Revenue at the very beginning asking that
13 the investigation be stopped because it was arbitrary
14 and capricious and was a misuse of the Grand Jury.
15 That was looked into, I assume, by the Commissioner of
16 Internal Revenue who wasn't really a party to the
17 Grand Jury proceedings anyway, and nothing came of that.
18 The agent, of course, continued to work on the case.

19 In addition, I don't want your Honor to get the
20 impression that this defendant was singled out and
21 hounded for a period of two years. There was evidence
22 presented to a Grand Jury. Of course, people are
23 entitled to take the 5th Amendment and relatives of
24 Mr. Albano did that, that requires getting immunity for
25 them and expelling their testimony. The accountant and

1 other associates of Mr. Albano who were called, they
2 raised certain privileges. In fact, I think, one of
3 the proceedings on that was before your Honor, these
4 things cause time to be taken during a Grand Jury
5 investigation. I might also suggest that once it
6 became clear in the Grand Jury that the testimony of
7 the relatives of Mr. Albano would not stand up under
8 any scrutiny, it was totally incredible, then there
9 was serious negotiation in the case which resulted in
10 the position that we are in now. The reason Mr., I
11 would suggest again there may be other reasons why
12 Mr. Santangelo wants to bring these relatives in here
13 and put them on the stand and I suppose, in all fairness
14 to them,, he's correct, he doesn't want to put them
15 through the strain of having to testify. But it's also
16 quite clear, Judge, that there was an agreement not to
17 prosecute Mr. Albano's brother for perjury as part of
18 the plea negotiation in this case and, of course, if
19 the brother were to come in again and testify, such an
20 agreement would not cover any future perjury of his and
21 he would therefore be in some jeopardy. And I might say
22 that goes for the other relatives that might testify.
23 So there's some of that too in Mr. Santangelo not
24 calling witnesses on the cash deposit, etc.

25 Now, the S.L.A. did look into Mr. Albano and I might

1 suggest they didn't look into Mr. Albano with the kind
2 of depth we did. I didn't write a letter to S.L.A., I
3 want to correct the record on that point, however, they
4 contacted me and I offered at that time, Mr. Larossa,
5 the defendant's brother-in-law and the brother,
6 Michael, the opportunity to come in and speak to us
7 before we would make any opinion known to the S.L.A.
8 and what the S.L.A. wanted was a clean bill of health
9 which we weren't willing to give, but we did offer them
10 the opportunity to come in and explain themselves to
11 our satisfaction concerning the business and we would
12 pass on to S.L.A. what our finding was. Of course,
13 they did not take that opportunity and did not. In
14 refusing to talk to us, as I indicated before, they
15 took the 5th Amendment and prolonged the Grand Jury
16 investigation.

17 I don't plan to respond to everything Mr. Santangelo
18 has raised. To my mind, your Honor, and in the opinion
19 of our office, this is a flagrant case. This is a
20 case that goes beyond the businessman's situation, where
21 you have an individual who comes forward and with extra
22 receipts from legitimate deals and indicates that he
23 evaded his income tax and pleads guilty. This is a
24 case where the money is not accounted for, where we
25 have been offered no credible explanation as to where

1 the 200 thousand dollars at least came from. I think
2 this type of case deserves much different treatment
3 and is clearly not to my mind, your Honor, a case for
4 leniency. I realize there are some very nice letters
5 that have been submitted in Mr. Albano's behalf,
6 Senator Clando, of course, sent a letter. I think he
7 represented Mr. Albano before an S.L.A. proceeding and
8 if I recall, he wrote a similar letter for Mr. Intriarri
9 who worked for Mr. Albano in the Police Department and
10 who had a 100 thousand dollars of income in his back-
11 ground. So, your Honor, I, I think that the letter
12 which I wrote to the Court sets forth facts, gives
13 your Honor a base upon which to treat this tax case
14 different from the innocent situation or innocent
15 matter of a businessman or someone who can establish
16 where the money came from.

17 MR. SANTANGELO: Just one final remark, your Honor.
18 With regard to what a credible explanation is, there's
19 no doubt in my mind that no matter what Albano or his
20 family would have said, it would have been incredible
21 both for Mr. Puccio and to the Internal Revenue Service
22 agents because through all of the proceedings, Mr. Puccio
23 had in the forefront of his mind, the initial allegation
24 that Albano was dealing in narcotics, that has been
25 disposed of, your Honor. And it's been disposed of

1 favorably to the defendant, that has been the bedrock
2 of Mr. Puccio's prosecution, the reason for and the
3 reason for all of his assumptions and inferences.
4 I don't believe that now, that this fact, this one
5 fact has been washed away that he can infer, nor can
6 this Court infer, nor can this Court say that the
7 explanations are incredible.

8 I think, your Honor, Mr. Albano has suffered
9 enough through this kind of whitewash and smear and I
10 ask, your Honor, to be lenient as justice requires.

11 THE COURT: On Count 5 of the indictment which
12 is the first count to which the defendant pleaded, it
13 is adjudged that the defendant is hereby committed to
14 the custody of the Attorney General or his authorized
15 representative for imprisonment for a term of three
16 years and the defendant to become eligible for parole
17 under 18 U.S. Section 4205B2 at such time as the
18 Parole Commission may determine. And defendant shall
19 pay a fine to the United States in the sum of ten
20 thousand dollars.

21 On Count 8, it is adjudged that the defendant is
22 hereby committed to the custody of the Attorney General
23 or his authorized representative for imprisonment for
24 a term of three years, the execution of said sentence
25 of imprisonment is hereby suspended, defendant placed

1 on probation for a period of five years, such sentence
2 to run consecutively to the sentence disposed on
3 Count 5 and the defendant shall pay a fine to the
4 United States in the sum of 5 thousand dollars.

5 On Count 10, it is adjudged that the defendant
6 is here committed to the custody of the Attorney
7 General or his authorized representative for imprison-
8 ment for a term of three years, the execution of such
9 sentence of imprisonment is hereby suspended and the
10 defendant placed on probation for a period of 5 years,
11 such sentence to run consecutively to the sentence
12 disposed on Count 5 and 8, and the Defendant shall pay
13 a fine to the United States in the sum of 5 thousand
14 dollars or total fines in the sum of 20 thousand
15 dollars on the three counts.

16 MR. SANTANGELO: If your Honor, please. Your
17 Honor has not sentenced the defendant in view of the
18 fact that the defendant up to this point had no real
19 idea of what kind of sentence he faced, and the fact
20 that this period of incarceration will require that
21 many, many arrangements be made with regard to running
22 of the businesses, may I ask your Honor to allow the
23 defendant to surrender himself in two weeks.

24 We are also facing, your Honor, the Easter Holidays.
25 The Albano family is a very close family and would ask

1 your Honor for them to spend their religious holiday
2 together.

3 MR. PUCCIO: Your Honor, I object to the
4 application, it's been quite clear for many, many
5 months now that this defendant was going to be sentenced
6 and I, in discussion with the Attorney, I think it was
7 quite clear to the Attorney, Mr. Santangelo, that
8 incarceration was going to take place here in all
9 likelihood. Several months ago, there was a dispute
10 between myself and Mr. Santangelo over whether the
11 Government had agreed to an extra 20 or 30 days and that
12 must be months ago. This defendant had ample time to
13 put his affairs in order. I just think that it does
14 reach a point where it becomes a flaunting of the whole
15 process.

16 THE COURT: Yes, I'm --

17 MR. PUCCIO: I think he should be remanded
18 immediately.

19 THE COURT: I'm inclined to agree with the
20 Government and deny your application.

21 MR. SANTANGELO: Please --

22 THE COURT: I'm going to deny your application.
23 That's the end of it.

24 MR. SANTANGELO: Your Honor, would you give me one
25 week, your Honor, could I have one --

1 THE COURT: No, I said, no. There's an end to
2 this argument, Mr. Santangelo. You have had a solid
3 hour almost.

4 MR. PUCCIO: Good morning, your Honor.
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SABTAGELLO

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK
COUNTY OF RICHMOND ss.:

EDWARD BAILEY being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the 31 day of May, 1977 at No. 225 Cadman Plaza East, Brooklyn, NY

deponent served the within *Appendix*
upon U.S. Atty., East. Dist. of NY

the Appellee herein, by delivering true copy(ies) thereof to him personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Appellee therein.

Sworn to before me this
31 day of May 1977.

William Bailey
WILLIAM BAILEY

Notary Public, State of New York

No. 43-0132945

Qualified in Richmond County

Commission Expires March 30, 1978

Edward Bailey
Edward Bailey